

#### **MAY 2004 FINANCE & INVESTMENT REPORT**

Prepared By:	
Finance Director	
Submitted By:	
City Manager	

Agenda Item # 1

#### **RECOMMENDED ACTION:**

Accept and File Report

#### **EXECUTIVE SUMMARY:**

Attached is the monthly Finance and Investment Report for the period ended May 31, 2004. The report covers the first eleven months of activity for the 2003/2004 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

FISCAL IMPACT: as presented

# CITY OF MORGAN HILL Monthly Financial and Investment Reports

May 31, 2004 - 92% Year Complete



Prepared by:

FINANCE DEPARTMENT



#### CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF MAY 2004 - 92% OF YEAR COMPLETE

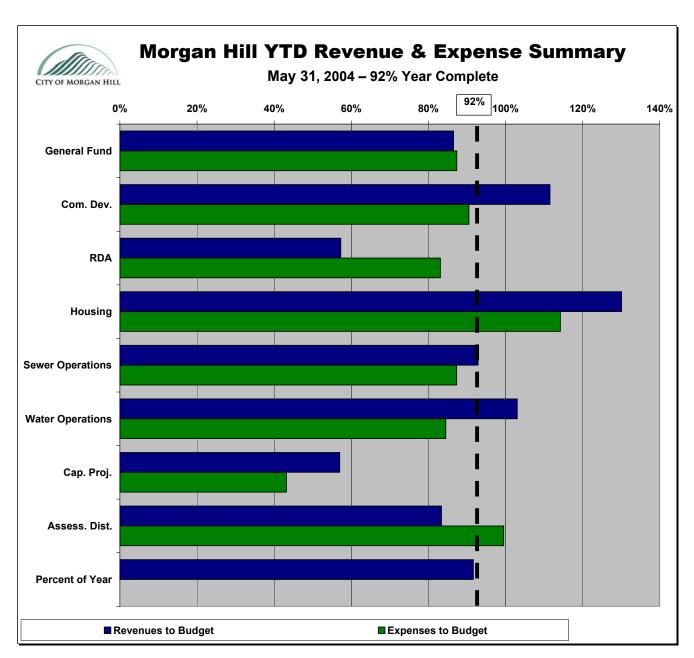
This analysis of the status of the City's financial situation reflects 92% of the year.

- \* General Fund The revenues received in the General Fund were approximately 87% of the budgeted revenues. Property related taxes received by the City amounted to 109% of the budget. The amount of Sales Tax collected was 83% of the sales tax revenue budget and was 7% less than the amount collected for the same period last year. Business license and other permit collections were 96% of the budgeted amount, a 3% increase over the same period last year. Motor Vehicle-in-Lieu revenues were only \$1,403,689, or 68% of the budgeted amount, which was 25% less than the amount received at this time last year. This drop in Motor Vehicle-in-Lieu fees was caused by the State's elimination of the "State backfill" for these fees for at least a three month period, resulting in much lower fees received by the City. A somewhat higher level of Motor Vehicle-in-Lieu fees should be received by the City over the rest of the fiscal year. As of this date, the State's fiscal crisis continues to make this process complicated and problematic. Interest & Other Revenue were 87% of budget and reflect interest earnings only through March, since earnings for the months of April and May will be posted following the end of the fourth quarter in June.
- \* The General Fund expenditures and encumbrances to date totaled 87% of the budgeted appropriations. The outstanding encumbrances in several activities are encumbrances for projects started but not completed in the prior year and carried forward to the current fiscal year.
- \* Transient Occupancy (Hotel) Tax The TOT rate is 10%. The City receives transient occupancy taxes on a quarterly basis. Taxes for the first three quarters of the current year amounted to \$679,429, or 76% of budget, which was 1% more than the amount received in the prior year by this point. Taxes for the fourth quarter ended June 30 will be received by the City after the end of the quarter.
- \* Community Development Revenues were 112% of budget, which was 3% more than the amount collected in the like period for the prior year. Planning expenditures plus encumbrances were 107% of budget; Building has expended or encumbered 77% of budget and Engineering 84%. Community Development has expended or encumbered a combined total of 91% of the 2003/04 budget, including \$331,714 in encumbrances. If encumbrances were excluded, Community Development would have spent only 81% of the combined budget.
- \* RDA and Housing Property tax increment revenues amounting to \$15,571,036 have been received as of May 31, 2004. Expenditures plus encumbrances totaled 76% of budget. If encumbrances totaling \$5,730,074 were excluded, the RDA would have spent only 65% of the combined budget. In July, the RDA spent \$3.4 million toward the Courthouse Project acquisition and, in March, spent another \$875,000 toward construction of the Courthouse Project. In August, the Agency made a \$2.55 million installment payment toward the purchase of the Sports Fields Complex property. In April, the Agency made the final installment payment of \$3,250,000 on the Gunderson property. In July, the Agency made a \$3 million loan to South County Housing for the Royal Court Housing. Through May 31, 2004, \$7.7 million in costs had been incurred associated with the construction of the Aquatics Complex Project.



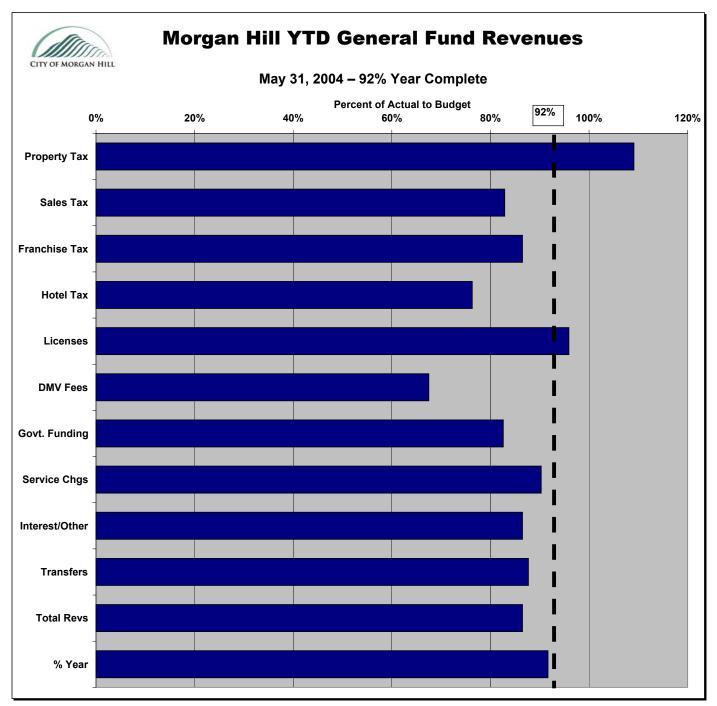
#### CITY OF MORGAN HILL, CALIFORNIA FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04 FOR THE MONTH OF MAY 2004 - 92% OF YEAR COMPLETE

- \* Water and Sewer Operations- Water Operations revenues, including service fees, were 103% of budget. Expenditures totaled 85% of appropriations. Sewer Operations revenues, including service fees, were 93% of budget. Expenditures for sewer operations were 87% of budget.
- \* Investments maturing/called/sold during this period. During the month of May, \$4 million was invested in new Federal Agency investments. Further details of all City investments are contained on pages 6-8 of this report.



					5/31/2004
		% OF	ACTUAL plus	% OF	UNRESTRICTED
FUND NAME	ACTUAL	BUDGET	ENCUMBRANCES	BUDGET	FUND BALANCE
General Fund	\$13,908,568	87%	\$14,564,904	87%	\$10,480,169
Community Development	2,567,429	112%	2,999,094	91%	1,120,065
RDA	13,484,262	57%	34,215,664	83%	(2,132,670)
Housing/CDBG	5,195,327	130%	5,661,316	114%	6,127,503
Sewer Operations	5,097,869	93%	6,563,296	87%	3,569,657
Sewer Other	2,795,737	225%	1,638,175	31%	12,505,997
Water Operations	7,289,665	103%	6,735,062	85%	3,134,127
Water Other	1,570,015	145%	3,603,359	50%	2,576,682
Other Special Revenues 1	710,572	66%	1,628,612	57%	2,124,940
Capital Projects & Streets Funds	7,711,027	57%	9,869,624	43%	22,650,344
Debt Service Funds	131,481	83%	235,276	100%	404,584
Internal Service	3,676,389	89%	3,545,722	88%	4,729,371
Agency	2,150,354	81%	4,596,051	176%	2,755,021
TOTAL FOR ALL FUNDS	\$66,288,695	81%	\$95,856,155	73%	\$70,045,790

<sup>&</sup>lt;sup>1</sup> Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds

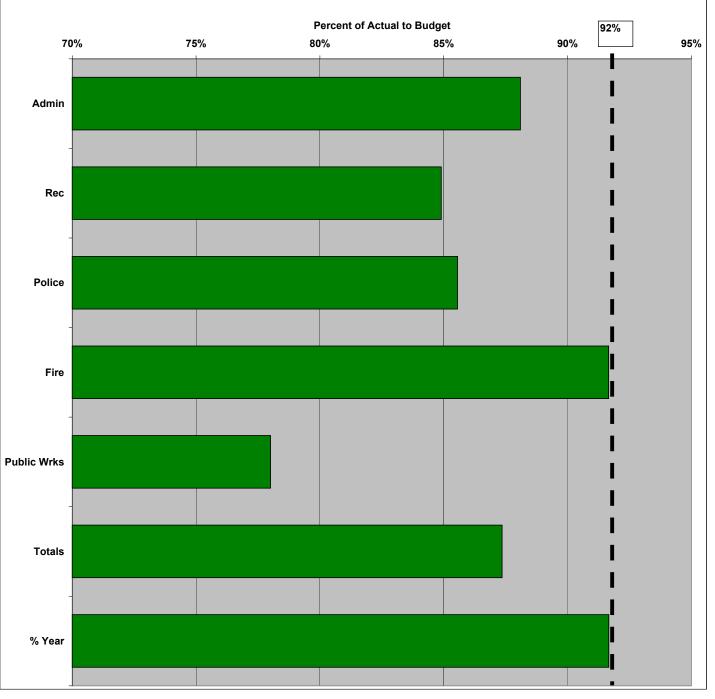


			% OF	PRIOR YEAR	% CHANGE FROM
REVENUE CATEGORY	BUDGET	ACTUAL	BUDGET	TO DATE	PRIOR YEAR
PROPERTY RELATED TAXES	\$2,440,000	\$2,662,411	109%	\$2,347,026	13%
SALES TAXES	\$4,922,625	\$4,079,940	83%	\$4,378,743	-7%
FRANCHISE FEE	\$961,180	\$831,596	87%	\$837,592	-1%
HOTEL TAX	\$890,000	\$679,429	76%	\$670,866	1%
LICENSES/PERMITS	\$202,600	\$194,267	96%	\$189,425	3%
MOTOR VEHICLE IN LIEU	\$2,080,000	\$1,403,689	68%	\$1,874,335	-25%
<b>FUNDING - OTHER GOVERNMENTS</b>	\$271,900	\$224,640	83%	\$101,655	121%
CHARGES CURRENT SERVICES	\$2,588,137	\$2,337,932	90%	\$2,035,209	15%
INTEREST & OTHER REVENUE	\$893,050	\$772,272	87%	\$586,750	32%
TRANSFERS IN	\$823,986	\$722,392	88%	\$831,554	-13%
	•	•		•	
TOTALS	\$16,073,478	\$13,908,568	87%	\$13,853,155	



#### **Morgan Hill YTD General Fund Expenditures**

May 31, 2004 - 92% Year Complete



Expenditure Category	enditure Category Budget		% of Budget
ADMINISTRATION	3,279,302	2,953,184	88%
RECREATION	2,012,348	1,708,504	85%
POLICE	6,812,300	5,828,443	86%
FIRE	3,745,220	3,432,896	92%
PUBLIC WORKS	822,840	641,877	78%
TOTALS	\$ 16.672.844	\$ 14,564,904	87%



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of May 2004 92% of Year Completed

			Revenues		Expenses		Year to-Date	Ending Fun	d Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or	j			
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
010	GENERAL FUND	\$11,136,505	\$13,908,568	87%	\$14,173,220	85%	(\$264,652)	\$391,684	\$10,480,169	\$11,228,237	\$4,150
TOTAL G	ENERAL FUND	<u>\$11,136,505</u>	<u>\$13,908,568</u>	<u>87%</u>	<u>\$14,173,220</u>	<u>85%</u>	(\$264,652)	<u>\$391,684</u>	<u>\$10,480,169</u>	<u>\$11,228,237</u>	<u>\$4,150</u>
202	STREET MAINTENANCE	\$1,683,131	\$1,560,910	114%	\$2,020,328	70%	(\$459,418)	\$374,813	\$848,900	\$1,136,959	
204/205	PUBLIC SAFETY/SUPPL. LAW	\$485,350	\$107,119	97%	\$250,784	92%	(\$143,665)		\$341,685	\$341,686	
206	COMMUNITY DEVELOPMENT	\$1,551,730	\$2,567,429	112%	\$2,667,380	81%	(\$99,951)	\$331,714	\$1,120,065	\$1,488,518	
207	GENERAL PLAN UPDATE	\$190,845	\$92,829	122%	\$60,322	31%	\$32,507	\$89,411	\$133,941	\$223,440	
210	COMMUNITY CENTER	\$360,157	\$3,892	63%	\$286,000	92%	(\$282,108)		\$78,049	\$78,050	
215 / 216	CDBG	\$636,136	\$30,921	20%	\$155,131	33%	(\$124,210)	533,288	(\$21,362)	\$115,178	
220	MUSEUM RENTAL	\$1,274	\$8	20%	\$2,035	84%	(\$2,027)		(\$753)	(\$753)	
225	ASSET SEIZURE	\$38,096	\$617	106%		n/a	\$617		\$38,713	\$38,713	
229	LIGHTING AND LANDSCAPE	\$33,766	\$68,778	54%	\$134,503	81%	(\$65,725)	\$19,667	(\$51,626)	(\$31,671)	
232	ENVIRONMENT PROGRAMS	\$613,697	\$317,486	82%	\$318,082	64%	(\$596)	\$63,846	\$549,255	\$615,636	
234	MOBILE HOME PK RENT STAB.	\$9,808	\$54,722	18%	\$106,824	31%	(\$52,102)	\$256,397	(\$298,691)	(\$42,294)	
235	SENIOR HOUSING	\$255,610	\$4,106	60%	\$6,450	45%	(\$2,344)		\$253,266	\$253,267	
236	HOUSING MITIGATION	\$1,043,306	\$31,951	115%	13,340	1%	\$18,611	1,660	\$1,060,257	\$1,061,916	
240	EMPLOYEE ASSISTANCE	\$8,921	\$29,064	144%	17,141	86%	\$11,923		\$20,844	\$18,236	
TOTAL S	PECIAL REVENUE FUNDS	<u>\$6,911,827</u>	\$4,869,832	99%	\$6,038,320	<u>63%</u>	(\$1,168,488)	<u>\$1,670,796</u>	\$4,072,543	<u>\$5,296,881</u>	
004	DADICADEN IMPAGE SUND	00 404 000	0040.007	0.400/	0057.005	470/	0550.000	0405.000	************		40 747 000
301	PARK DEV. IMPACT FUND	\$3,191,630	\$913,067	210%	\$357,005	17%	\$556,062	\$105,883	\$3,641,809	00.057.000	\$3,747,692
302	PARK MAINTENANCE	\$2,909,243	\$298,145	116%	\$150,000	75%	\$148,145	0400.004	\$3,057,388	\$3,057,388	00.440.00
303	LOCAL DRAINAGE	\$2,910,954	\$206,989	71%	\$5,076	0%	\$201,913	\$103,881	\$3,008,986	00.400.040	\$3,112,867
304	LOCAL DRAINAGE/NON-AB1600	\$3,276,514	\$135,702	86%	\$103,006	47%	\$32,696	\$7,642	\$3,301,568	\$3,189,210	
305	OFF-STREET PARKING	\$4,020	\$65	68% 412%	4,058	102%	(\$3,993)	040.000	\$27	\$27	
306 309	OPEN SPACE	\$458,488	\$236,532		<b>CCEO 455</b>	32%	\$236,532	\$10,000	\$685,020	\$695,020	<b>CO FOZ 74</b> F
	TRAFFIC IMPACT FUND	\$2,826,115	\$1,414,424	213% 223%	\$658,155	2%	\$756,269	\$443,363	\$3,139,021		\$3,567,715
311 313	POLICE IMPACT FUND	\$1,183,045	\$115,044		\$25,025		\$90,019	\$10,000	\$1,263,064		\$1,273,064
313	FIRE IMPACT FUND REDEVELOPMENT AGENCY	\$2,603,859 \$20,860,548	\$229,038 \$13,484,262	155% 57%	\$520,120 \$27,722,576	94% 67%	(\$291,082) (\$14,238,314)	\$9,101 8,754,904	\$2,303,676 (\$2,132,670)	¢4 277 224	\$2,312,777
	HOUSING	\$24,240,428	\$5,164,406	135%	\$5,314,767	55%	(\$150,361)	17,941,202	\$6,148,865	\$4,377,224 \$6,213,180	
340	MORGAN HILL BUS.RANCH I	\$48,290	\$5,164,400	68%	\$5,514,707	33%	\$781	17,941,202	\$49,071	\$49,071	
342	MORGAN HILL BUS.RANCH II	\$54,233	877	n/a		+	\$877		\$55.110	\$55,109	
342 346	PUBLIC FACILITIES NON-AB1600	\$1,332,714	\$1,950,076	20%	2,376,555		(\$426,479)	\$1,401,335	(\$495,100)	\$718,735	
347	PUBLIC FACILITIES IMPACT FUND	\$665,032	\$501,468	322%	\$969,109	101%	(\$467,641)	2,470	\$194,921	Ψ110,133	\$160,721
348	LIBRARY IMPACT FUND	\$414,456	\$71,045	231%	\$206	92%	\$70,839	2,470	\$485,295		\$485,295
350	UNDERGROUNDING	\$1,257,217	61,802	196%	\$178,743	41%	(\$116,941)	43,750	\$1,096,526	\$1,140,174	Ψ400,290
360	COMM/REC CTR IMPACT FUND	φ1,237,217	15,062	196%	\$170,743	41%	\$15,062	43,730	\$15,062	\$15,062	
	APITAL PROJECT FUNDS	\$68,236,786	\$24,798,785	63%	\$38,384,401	54%	(\$13,585,616)	\$28,833,531	\$25,817,639	\$19,510,200	\$14,660,131
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527	HIDDEN CREEK			n/a							
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$68,027	\$1,099	67%			\$1,099		\$69,126	\$69,126	
539	MORGAN HILL BUS. PARK	\$11,867	\$191	43%			\$191		\$12,058	\$12,058	
542	SUTTER BUSINESS PARK	\$24,910	\$403	55%			\$403		\$25,313	\$25,313	
545	COCHRANE BUSINESS PARK	\$374,418	\$111,840	93%	\$194,764	99%	(\$82,924)		\$291,494	\$110,544	\$180,950
551	JOLEEN WAY	\$29,157	\$17,948	51%	\$40,512	100%	(\$22,564)		\$6,593	(\$10,656)	\$17,250
TOTAL D	EBT SERVICE FUNDS	\$508,379	\$131,481	83%	\$235,276	100%	(\$103,795)		\$404,584	\$206,385	\$198,200



City of Morgan Hill Fund Activity Summary - Fiscal Year 2003/04 For the Month of May 2004 92% of Year Completed

			_		-						
			Revenues		Expenses		Year to-Date	Ending Fur	id Balance	Cash and In	vestments
Fund		Fund Balance	YTD	% of	YTD	% of	Deficit or				0
No.	Fund	06-30-03	Actual	Budget	Actual	Budget	Carryover	Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
640	SEWER OPERATIONS	\$16,004,091	\$5,097,869	93%	\$6,479,869	86%	(\$1,382,000)	\$11,052,434	\$3,569,657	\$3,136,232	\$1,893,425
641	SEWER IMPACT FUND	\$7,772,110	\$2,225,916	355%	\$594,110	16%	\$1,631,806	3,241,854	\$6,162,062	ψ3,130,232	\$6,318,237
642	SEWER RATE STABILIZATION	\$3,804,228	\$149,336	167%	\$2,172	92%	\$147,164	3,241,034	\$3,951,392	\$3,951,392	φ0,510,251
643	SEWER-CAPITAL PROJECTS	\$9,683,556	\$420,485	80%	\$666,879	41%	(\$246,394)	7,044,619	\$2,392,543	\$2,732,227	
650	WATER OPERATIONS	\$21,476,576	\$7,289,665	103%	\$6,093,621	17%	\$1,196,044	\$19,538,493	\$3,134,127	\$2,736,741	\$389,957
651	WATER OF ERATIONS WATER IMPACT FUND	\$3,271,280	\$978,033	148%	\$1,069,401	40%	(\$91,368)	3,650,145	(\$470,234)	Ψ2,730,741	(\$206,251)
652	WATER RATE STABILIZATION	\$867,428	\$8,763	43%	\$779,672	92%	(\$770,909)	3,030,143	\$96,519	\$96,519	(\$200,231)
653	WATER RATE STABILIZATION WATER -CAPITAL PROJECT	\$9,092,130	\$583,219	145%	\$1,021,003	35%	(\$437,784)	5,703,949	\$2,950,397	\$3,419,697	
		\$9,092,130	φ003,Z19	143%	\$1,021,003	35%	(\$437,764)	5,705,949	\$2,950,597	\$5,419,097	
TOTAL E	NTERPRISE FUNDS	<u>\$71,971,399</u>	<u>\$16,753,286</u>	<u>113%</u>	<u>\$16,706,727</u>	<u>61%</u>	<u>\$46,559</u>	<u>\$50,231,494</u>	<u>\$21,786,463</u>	<u>\$16,072,808</u>	<u>\$8,395,368</u>
730	DATA PROCESSING	\$436,026	\$224,822	92%	\$191,791	73%	\$33,031	84,080	\$384,977	\$416,997	
740	BUILDING MAINTENANCE	\$400,151	\$818,241	92%	\$391,465	59%	\$426,776	29,198	\$797,729	\$839,048	
745	CIP ADMINISTRATION	\$59,437	\$1,185,017	82%	\$1,184,785	76%	\$232	115,654	(\$55,985)	\$101,312	
760	UNEMPLOYMENT INS.	\$47,278	\$22,088	75%	\$39,650	132%	(\$17,562)		\$29,716	\$29,716	
770	WORKER'S COMP.	\$6,147	\$652,994	95%	\$690,809	94%	(\$37,815)	27,075	(\$58,743)	\$520,952	\$40,000
790	EQUIPMENT REPLACEMENT	\$3,379,971	\$223,040	83%	\$43,612	17%	\$179,428	762,597	\$2,796,802	\$3,005,367	
793	CORPORATION YARD	\$264,851	\$192,614	120%	\$170,034	99%	\$22,580	278,686	\$8,745	\$46,971	
795	GEN'L LIABILITY INS.	\$856,668	\$357,573	92%	\$388,111	104%	(\$30,538)		\$826,130	\$1,151,946	
TOTAL IN	NTERNAL SERVICE FUNDS	\$5,450,529	\$3,676,389	89%	\$3,100,257	77%	\$576,132		\$4,729,371	\$6,112,309	\$40,000
. •		<del>40 100 020</del>	40,010,000	<u> </u>	40,100,201	<u>,v</u>	40.01.02		<u> </u>	<u> <del>70 112 000</del></u>	<u> </u>
820	SPECIAL DEPOSITS									\$901,069	
841	M.H. BUS.RANCH A.D.	\$1,649,856	\$383,355	52%	\$2,010,287	278%	(\$1,626,932)		\$22,924	\$22,925	
842	M.H. BUS. RANCH II A.D.	\$107.240	\$36,550	98%	\$141.917	365%	(\$105,367)		\$1.873	\$1,873	
843	M.H. BUS. RANCH 1998	\$1,492,569	\$418,949	140%	\$873,255	100%	(\$454,306)		\$1,038,263	\$153,015	\$885,244
844	MH RANCH RSMNT 2004A	ψ1,102,000	\$760,610	11070	\$590,139	n/a	\$170,471		\$170,471	\$404	\$170,067
845	MADRONE BP-TAX EXEMPT	\$1,312,253	\$399,887		\$808,791	101%	(\$408,904)		\$903,349	\$104,775	\$798,262
846	MADRONE BP-TAXABLE	\$256,944	\$83,942	81%	\$171,662	100%	(\$87,720)		\$169,223	\$15,043	\$154,183
848	TENNANT AVE.BUS.PK A.D.	\$360,919	\$66,717	140%	Ψ17 1,002	na	\$66,717		\$427,636	\$427,635	Ψ101,100
881	POLICE DONATION TRUST FUND	\$20,938	\$344	140%		114	\$344		\$21,282	Ψ121,000	\$21,281
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TOTAL A	GENCY FUNDS	<u>\$5,200,719</u>	<u>\$2,150,354</u>	<u>81%</u>	<u>\$4,596,051</u>	<u>176%</u>	<u>(\$2,445,697)</u>		<u>\$2,755,021</u>	<u>\$1,626,739</u>	<u>\$2,029,037</u>
	W BV BUND BVDB										
SUMMAR	RY BY FUND TYPE										
	GENERAL FUND GROUP	\$11,136,505	\$13,908,568	87%	\$14,173,220	85%	(\$264,652)	\$391,684	\$10,480,169	\$11,228,237	\$4,150
	SPECIAL REVENUE GROUP	\$6,911,827	\$4,869,832	99%	\$6,038,320	63%	(\$1,168,488)	\$1,670,796	\$4,072,543	\$5,296,881	
	DEBT SERVICE GROUP	\$508,379	\$131,481	83%	\$235,276	100%	(\$103,795)		\$404,584	\$206,385	\$198,200
	CAPITAL PROJECTS GROUP	\$68,236,786	\$24,798,785	63%	\$38,384,401	54%	(\$13,585,616)	\$28,833,531	\$25,817,639	\$19,510,200	\$14,660,131
	ENTERPRISE GROUP	\$71,971,399	\$16,753,286	113%	\$16,706,727	61%	\$46,559	\$50,231,494	\$21,786,463	\$16,072,808	\$8,395,368
	INTERNAL SERVICE GROUP	\$5,450,529	\$3,676,389	89%	\$3,100,257	77%	\$576,132		\$4,729,371	\$6,112,309	\$40,000
	AGENCY GROUP	\$5,200,719	\$2,150,354	81%	\$4,596,051	176%	(\$2,445,697)		\$2,755,021	\$1,626,739	\$2,029,037
	TOTAL ALL GROUPS	\$169,416,144	\$66,288,695	81%	\$83,234,252	63%	(\$16,945,557)	\$81,127,505	\$70,045,790	\$60,053,559	\$25,326,886
	TOTAL CASH AND INVESTMENTS									<u>\$85,380,445</u>	

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

<sup>&</sup>lt;sup>1</sup> Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

<sup>&</sup>lt;sup>2</sup> Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



#### CITY OF MORGAN HILL CASH AND INVESTMENT REPORT FOR THE MONTH OF MAY 2004 FOR THE FISCAL YEAR OF 2003-04

	Invested	Wintel	Book Value	Investment Category	% of	Market
Investments	in Fund	Yield	End of Month	Subtotal at Cost	Total	Value
Investments						
State Treasurer LAIF - City	All Funds Pooled	1.45%	\$26,488,757		31.02%	\$26,508,745
- RDA	RDA	1.45%	\$6,462,440		7.57%	\$6,467,317
- Corp Yard	Corp Yard	1.45%	\$52,203		0.06%	\$52,243
Federal Issues	All Funds Pooled	3.20%	\$45,245,349		53.00%	\$44,705,580
SVNB CD	All Funds Pooled	1.70%	\$2,000,000		2.34%	\$2,000,000
Money Market	All Funds Pooled	0.82%	\$250	\$80,248,999	0.00%	\$250
Bond Reserve Accounts - held by trustees						
BNY - 2002 SCRWA Bonds						
MBIA Repurchase & Custody Agmt	Sewer	4.78%	\$1,849,399			
Blackrock Provident Temp Fund		0.66%	\$44,025		2.22%	\$1,893,425
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	0.47%	\$389,957		0.46%	\$389,957
US Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	0.47%	\$885,244		1.04%	\$885,244
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.47%	\$798,262		0.93%	\$798,262
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.47%	\$154,183		0.18%	\$154,183
BNY - MH Ranch 2004 A	MH Ranch Bus Park					
Blackrock Provident Temp Fund	Agency Fund	0.66%	\$170.067	\$4.291.137	0.20%	\$170,067
Checking Accounts	i igano, i ana		*,	•		*******
General Checking	All Funds		\$796,158		0.93%	\$796,158
Dreyfuss Treas Cash Management Account	All Funds				0.00%	\$0
Athens Administators Workers' Comp	Workers' Comp		\$40,000		0.05%	\$40,000
Petty Cash & Emergency Cash	Various Funds		\$4,150	\$840,308	0.00%	\$4,150
Total Cash and Investments			\$85,380,444	\$85,380,444	<u>100.00%</u>	<u>\$84,865,581</u>
MH Financing Authority Investment in		1.75% to				
MH Ranch AD Imprvmt Bond Series 2004	ļ.	4.50%	\$4,795,000			<u>Unavailable</u>

#### CASH ACTIVITY SUMMARY FY 03/04

	7/1/2003	Change in	05/31/04		
Fund Type	Balance	Cash Balance	Balance	Restricted	Unrestricted
General Fund	\$11,198,677	\$33,710	\$11,232,387	\$4,150	\$11,228,237
Community Development	\$1,598,168	(\$109,650)	\$1,488,518	\$0	\$1,488,518
RDA (except Housing)	\$18,789,948	(\$14,412,724)	\$4,377,224	\$0	\$4,377,224
Housing / CDBG	\$6,264,517	\$63,841	\$6,328,358	\$0	\$6,328,358
Water - Operations	\$2,197,360	\$929,338	\$3,126,698	\$389,957	\$2,736,741
Water Other	\$4,882,333	(\$1,572,368)	\$3,309,965	-\$206,251	\$3,516,216
Sewer - Operations	\$6,399,908	(\$1,370,251)	\$5,029,657	\$1,893,425	\$3,136,232
Sewer Other	\$11,899,860	`\$1,101,995 <sup>°</sup>	\$13,001,855	\$6,318,236	\$6,683,619
Other Special Revenue	\$3,011,901	(\$455,675)	\$2,556,226	\$0	\$2,556,226
Streets and Capital Projects (except RDA)	\$24,402,072	\$314,814	\$24,716,886	\$14,660,131	\$10,056,755
Assessment Districts	\$504,821	(\$100,237)	\$404,584	\$198,200	\$206,384
Internal Service	\$5,993,387	\$158,922	\$6,152,309	\$40,000	\$6,112,309
Agency Funds	\$5,943,872	(\$2,288,095)	\$3,655,777	\$2,029,038	\$1,626,739
Total	<u>\$103,086,824</u>	(\$17,706,380)	\$85,380,444	<u>\$25,326,886</u>	\$60,053,558

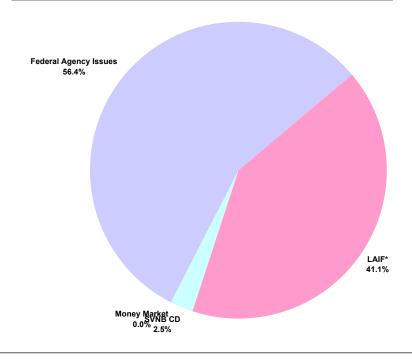
Note: See Investment Porfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports. \*Market Value as of 04/30/04

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by:		Approved by:		
4	Lourdes Reroma Accountant I	, , , , , , , , , , , , , , , , , , ,	Jack Dilles Director of Finance	
Verified by:	Tina Reza Assistant Director of Finance		Mike Roorda City Treasurer	

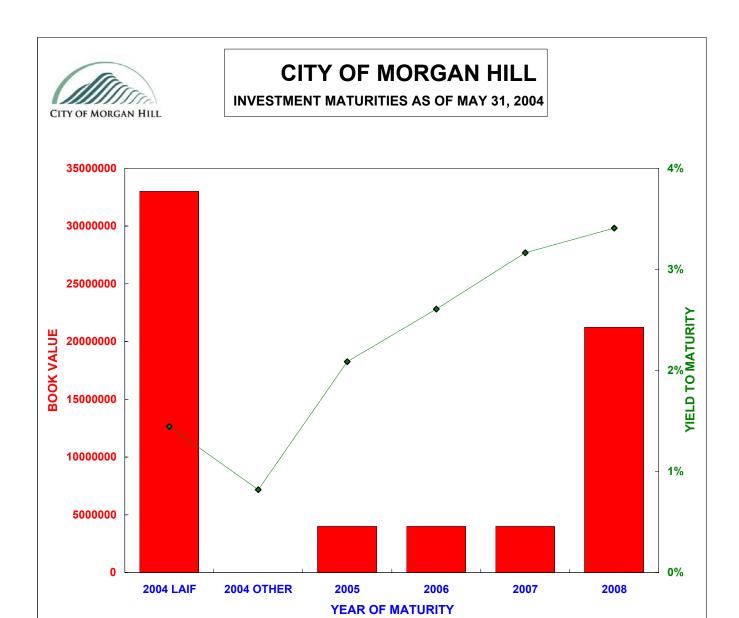


### CITY OF MORGAN HILL INVESTMENT PORTFOLIO DETAIL as of 05/31/04



Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
LAIF*		\$33,003,399	41.13%	\$33,028,305	1.445%	\$625,797			0.003
SVNB CD	07/07/03	\$2,000,000	2.49%	\$2,000,000	1.700%	\$31,167		07/07/05	1.099
Federal Agency Issues									
Fed Home Loan Bank	05/21/04	\$2,000,000	2.49%	\$2,000,000	2.474%	\$1,479	06/21/04	11/21/05	1.474
Fed Home Loan Bank	02/26/04	\$2,000,000	2.49%	\$2,001,260	2.563%	\$13,519	08/26/04	05/26/06	1.984
Fed Home Loan Bank	03/29/04	\$2,000,000	2.49%	\$1,967,500	2.650%	\$9,217	09/29/04	12/29/06	2.578
Fed Home Loan Bank	03/18/04	\$2,000,000	2.49%	\$1,986,880	3.030%	\$12,351	06/18/04	06/18/07	3.047
Fed Home Loan Bank	03/29/04	\$2,000,000	2.49%	\$1,959,380	3.300%	\$11,478	09/28/04	12/28/07	3.575
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.49%	\$1,993,860	3.500%	\$64,293	09/12/04	03/12/08	3.781
Fed Home Loan Bank	03/26/03	\$2,000,000	2.49%	\$1,984,380	3.375%	\$61,997	anytime	03/26/08	3.819
Fed Home Loan Mgt Corp	04/16/03	\$2,000,000	2.49%	\$1,996,420	3.600%	\$66,098	10/16/04	04/16/08	3.877
Fed Home Loan Mgt Corp	04/17/03	\$1,995,349	2.49%	\$1,990,160	3.625%	\$68,873	10/17/04	04/17/08	3.879
Fed Farm Credit Bank	06/03/03	\$2,000,000	2.49%	\$1,967,500	3.210%	\$58,938	06/03/04	06/03/08	4.008
Fed Farm Credit Bank	06/12/03	\$2,000,000	2.49%	\$1,947,500	2.950%	\$54,164	07/30/04	06/12/08	4.033
Fed Home Loan Bank	07/30/03	\$2,000,000	2.49%	\$1,946,260	3.000%	\$50,275	07/30/04	07/30/08	4.164
Fed Home Loan Bank	07/30/03	\$2,000,000	2.49%	\$1,966,260	3.243%	\$54,799	07/30/04	07/30/08	4.164
Fed Home Loan Bank	07/30/03	\$2,000,000	2.49%	\$1,975,620	3.400%	\$56,978	07/30/04	07/30/08	4.164
Fed Home Loan Bank	08/14/03	\$1,250,000	1.56%	\$1,245,700	3.690%	\$36,748	08/14/04	08/14/08	4.205
Fed Home Loan Bank	10/15/03	\$2,000,000	2.49%	\$2,004,380	4.000%	\$25,137	10/15/04	10/15/08	4.375
Fed Farm Credit Bank	03/16/04	\$2,000,000	2.49%	\$1,923,760	3.650%	\$15,274	06/16/04	03/16/09	4.792
Fed Home Loan Bank	04/06/04	\$2,000,000	2.49%	\$1,960,620	3.625%	\$11,093	10/06/04	04/06/09	4.849
Fed Home Loan Bank	04/07/04	\$2,000,000	2.49%	\$1,958,760	3.600%	\$10,820	07/07/04	04/07/09	4.852
Fed National Mortgage	04/16/04	\$2,000,000	2.49%	\$1,973,760	3.750%	\$9,426	07/16/04	04/16/09	4.877
Fed Home Loan Bank	04/29/04	\$2,000,000	2.49%	\$1,967,500	3.750%	\$6,762	07/29/04	04/29/09	4.912
Fed Home Loan Bank	05/18/04	\$2,000,000	2.49%	\$2,000,000	4.500%	\$3,424	06/18/04	05/18/09	4.964
Fed Home Loan Bank	03/26/04	\$2,000,000	2.49%	\$1,988,120	4.000%	\$15,225	06/26/04	06/26/09	4.819
Redeemed FY 03/04						\$352,213			
Sub Total/Average		\$45,245,349	56.38%	\$44,705,580	3.204%	\$1,070,581			3.962
Money Market		\$250	0.00%	\$250	0.820%	\$8,187			0.003
TOTAL/AVERAGE		\$80,248,999	100.00%	\$79,734,135	2.558%	\$1,735,732			2.263

<sup>\*</sup>Per State Treasurer Report dated 04/30/2004, LAIF had invested approximately 14% of its balance in Treasury Bills and Notes, 21% in CDs, 21% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 44% in others.



YEAR OF	ВООК	MARKET	AVERAGE	% OF
MATURITY	VALUE	VALUE	RATE	TOTAL
2004 LAIF	\$33,003,399	\$33,028,305	1.445%	41.13%
2004 OTHER	\$250	\$250	0.820%	0.00%
2005	\$4,000,000	\$4,000,000	2.087%	4.98%
2006	\$4,000,000	\$3,968,760	2.607%	4.98%
2007	\$4,000,000	\$3,946,260	3.165%	4.98%
2008	\$21,245,349	\$21,018,040	3.408%	26.47%
2009	\$14,000,000	\$13,772,520	3.839%	17.45%
TOTAL	\$80,248,999	\$79,734,135	2.558%	100.00%



SOURCE 010 GENERAL FUND	BUDGET	BUDGET	YTD ACTUAL	% OF BUDGET	PRIOR YTD	FROM PRIOR YTD	% CHANGE
TAXES							
Property Taxes - Secured/Unsecured/Prio	1,972,200	1,972,200	2,169,720	110%	1,964,728	204,992	10%
Supplemental Roll	200,000	200,000	120,933	60%	153,585	(32,652)	-21%
Sales Tax	4,649,625	4,649,625	3,888,472	84%	4,159,303	(270,831)	-7%
Public Safety Sales Tax	273,000	273,000	191,468	70%	219,440	(27,972)	-13%
Transient Occupancy Taxes	890,000	890,000	679,429	76%	670,866	8,563	1%
Franchise (Refuse ,Cable ,PG&E)	961,180	961,180	831,596	87%	837,592	(5,996)	-1%
Property Transfer Tax	267,800	267,800	371,758	<u>139%</u>	228,713	143,045	<u>63%</u>
TOTAL TAXES	9,213,805	9,213,805	8,253,376	90%	8,234,227	19,149	0%
LICENSES/PERMITS							
Business License	154,500	154,500	153,235	99%	148,913	4,322	3%
Other Permits	48,100	48,100	41,032	<u>85%</u>	40,512	520	<u>1%</u>
TOTAL LICENSES/PERMITS	202,600	202,600	194,267	96%	189,425	4,842	3%
FINES AND PENALTIES							
Parking Enforcement	13,400	13,400	12,787	95%	8,200	4,587	56%
City Code Enforcement	77,300	77,300	43,548	56%	49,735	(6,187)	-12%
Business tax late fee/other fines	2,600	2,600	1,264	<u>49%</u>	1,741	(477)	<u>-27%</u>
TOTAL FINES AND PENALTIES	93,300	93,300	57,599	62%	59,676	(2,077)	-3%
OTHER AGENCIES							
Motor Vehicle in-Lieu	2,080,000	2,080,000	1,403,689	67%	1,874,335	(470,646)	-25%
Other Revenue - Other Agencies	271,900	271,900	224,640	<u>83%</u>	101,655	122,985	<u>121%</u>
TOTAL OTHER AGENCIES	2,351,900	2,351,900	1,628,329	69%	1,975,990	(347,661)	-18%
CHARGES CURRENT SERVICES							
False Alarm Charge	24,700	24,700	17,289	70%	25,430	(8,141)	-32%
Business License Application Review	20,900	20,900	23,729	114%	23,214	515	2%
Recreation Classes	352,740	352,740	248,733	71%	93,006	155,727	167%
General Administration Overhead	2,007,978	2,007,978	1,840,647	92%	1,701,273	139,374	8%
Other Charges Current Services	181,819	181,819	207,534	<u>114%</u>	192,286	15,248	<u>8%</u>
TOTAL CURRENT SERVICES	2,588,137	2,588,137	2,337,932	90%	2,035,209	302,723	15%
OTHER REVENUE	_	_					
Use of money/property	775,550	775,550	664,081	86%	473,287	190,794	40%
Other revenues	24,200	24,200	50,592	<u>209%</u>	53,787	(3,195)	<u>-6%</u>
TOTAL OTHER REVENUE	799,750	799,750	714,673	89%	527,074	187,599	36%
TRANSFERS IN	000.005	000.00-	4=	750	<b></b> -		40.007
Park Maintenance	200,000	200,000	150,000	75%	75,000	75,000	100%
Sewer Enterprise	17,500	17,500	16,042	92%	16,042	-	n/a
Water Enterprise	17,500	17,500	16,042	92%	16,042	- 0.750	n/a
Public Safety	273,000	273,000	250,250	92%	247,500	2,750	1%
Community Cultural Center	312,000	312,000	286,000	92%	476,970	(190,970)	-40%
Other Funds TOTAL TRANSFERS IN	3,986 <b>823,986</b>	3,986 <b>823,986</b>	4,058 <b>722,392</b>	<u>102%</u> <b>88%</b>	831,554	4,058 (109,162)	<u>n/a</u> -13%
TOTAL GENERAL FUND	16,073,478	16,073,478	13,908,568	87%	13,853,155	55,413	0%



FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE	052.400	052.400	550.057	0.40/	007.027	(57.700)	400/
Gas Tax 2105 - 2107.5 Measure A & B	653,400	653,400	550,057	84%	607,837	(57,780)	-10%
Tea 21	-	-	_	n/a	-	-	n/a n/a
Transfers In	700,000	700,000	625,000	n/a 89%	832,750	(207.750)	-25%
Project Reimbursement	700,000	700,000	358,108	n/a	70,402	(207,750) 287,706	409%
Interest / Other Revenue/Other Charges	14.861	- 14.861	27.745	187%	147.953	(120,208)	<u>-81%</u>
202 STREET MAINTENANCE	1,368,261	1,368,261	1,560,910	114%	1,658,942	(98,032)	<u>-61%</u> -6%
SZ GTREET MAINTENANGE	1,000,201	1,000,201	1,000,010	11470	1,000,042	(55,552)	-0 70
204/205 PUBLIC SAFETY TRUST	0.050	0.050	7.440	700/	47.000	(40.444)	500/
Interest Income	9,956	9,956	7,119	72%	17,230	(10,111)	-59%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	- 20.705	(20.705)	n/a
CA Law Enforcement Equip.Grant	-	-	_	n/a	20,765	(20,765)	-100%
Federal Police Grant (COPS)	-	-	-	n/a	17,874	(17,874)	-100%
Transfers In 04/205 PUBLIC SAFETY TRUST	109,956	834	407 440	<u>n/a</u> <b>97%</b>	455.000	(49.750)	<u>n/a</u>
.04/203 FOBLIC SAFETT TRUST	109,956	110,790	107,119	91 /6	155,869	(48,750)	-31%
06 COMMUNITY DEVELOPMENT							
Building Fees	1,100,500	1,100,500	1,741,001	158%	1,315,940	425,061	32%
Planning Fees	616,496	616,496	405,803	66%	532,305	(126,502)	-24%
Engineering Fees	519,600	519,600	364,786	70%	603,811	(239,025)	-40%
Other Revenue/Current Charges	9,763	9,763	28,339	290%	48,027	(19,688)	-41%
<u>Transfers</u>	30,000	55,486	27,500	<u>50%</u>		27,500	<u>n/a</u>
206 COMMUNITY DEVELOPMENT	2,276,359	2,301,845	2,567,429	112%	2,500,083	67,346	3%
207 GENERAL PLAN UPDATE	76,087	76,087	92,829	122%	112,866	(20,037)	-18%
215 and 216 HCD BLOCK GRANT							
HCD allocation	152,000	152,000	24,178	16%	-	24,178	n/a
Interest Income/Other Revenue	3,900	3,900	6,743	173%	18,381	(11,638)	-63%
<u>Transfers</u>	782	782	=	<u>n/a</u>			<u>n/a</u>
15 and 216 HCD BLOCK GRANT	156,682	156,682	30,921	20%	18,381	12,540	68%
10 COMMUNITY CENTER	6,198	6,198	3,892	63%	122,594	(118,702)	-97%
20 MUSEUM RENTAL	41	41	. 8	20%	74	(66)	-89%
25 ASSET SEIZURE	583	583	617	106%	1,246	(629)	-50%
29 LIGHTING AND LANDSCAPE	127,770	127,770	68,778	54%	68,646	132	0%
32 ENVIRONMENTAL PROGRAMS	387,209	387,209	317,486	82%	320,921	(3,435)	-1%
34 MOBILE HOME PARK RENT STAB.	56,298	306,298	54,722	18%	17,826	36,896	207%
35 SENIOR HOUSING	6,897	6,897	4,106	60%	17,592	(13,486)	-77%
36 HOUSING MITIGATION	27,775	27,775	31,951	115%	27,519	4,432	16%
240 EMPLOYEE ASSISTANCE	20,162	20,162	29,064	144%	52,906	(23,842)	-45%
OTAL SPECIAL REVENUE FUNDS	4,620,278	4,896,598	4,869,832	99%	5,075,465	(205,633)	-4%



CITY OF MORGAN HILL	92% of Year Co	mpietea					
FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANG
CAPITAL PROJECTS FUNDS							
801 PARK DEVELOPMENT	435,072	435,072	913,067	210%	439,447	473,620	108%
302 PARK MAINTENANCE	257,923	257,923	298,145	116%	299,453	(1,308)	0%
303 LOCAL DRAINAGE	291,028	291,028	206,989	71%	343,945	(136,956)	-40%
804 LOCAL DRAINAGE/NON AB1600	157,378	157,378	135,702	86%	265,512	(129,810)	-49%
805 OFF-STREET PARKING	95	95	65	68%	104	(39)	-38%
306 OPEN SPACE	57,428	57,428	236,532	412%	118,670	117,862	99%
309 TRAFFIC MITIGATION	662,507	662,507	1,414,424	213%	720,618	693,806	96%
311 POLICE MITIGATION	51,569	51,569	115,044	223%	77,126	37,918	49%
313 FIRE MITIGATION	147,884	147,884	229,038	155%	203,701	25,337	12%
17 RDA CAPITAL PROJECTS							
Property Taxes & Supplemental Roll	13,070,618	14,086,573	11,717,528	83%	13,470,732	(1,753,204)	-13%
Development Agreements			-	n/a	-	-	n/a
Interest Income, Rents			222,498	n/a	274,569	(52,071)	-19%
Other Agencies/Current Charges	10,465,955	9,450,000	1,544,236	<u>16%</u>	107,758	1,436,478	1333%
317 RDA CAPITAL PROJECTS	23,536,573	23,536,573	13,484,262	57%	13,853,059	(368,797)	-3%
27/328 RDA L/M HOUSING							
Property Taxes & Supplemental Roll	3,791,085	3,791,085	3,853,508	102%	3,703,856	149,652	4%
Interest Income, Rent	45,364	45,364	550,371	1213%	345,889	204,482	59%
<u>Other</u>	90	90	760,527	<u>845030%</u>	1,000	759,527	<u>75953%</u>
327/328 RDA L/M HOUSING	3,836,539	3,836,539	5,164,406	135%	4,050,745	1,113,661	27%
346 PUBLIC FACILITIES NON-AB1600	9,875,877	9,875,877	1,950,076	20%	282,050	1,668,026	591%
347 PUBLIC FACILITIES	46,900	155,861	501,468	322%	80,146	421,322	526%
348 LIBRARY	30,782	30,782	71,045	231%	39,919	31,126	78%
350 UNDERGROUNDING	31,495	31,495	61,802	196%	199,559	(137,757)	-69%
340 MORGAN HILL BUS.RANCH CIP I	1,144	1,144	781	68%	1,253	(472)	-38%
342 MORGAN HILL BUS.RANCH CIP II	1,282	1,282	877	68%	1,407	(530)	-38%
360 COMMUNITY/REC IMPACT FUND			15,062	n/a	-	15,062	n/a
OTAL CAPITAL PROJECTS FUNDS	39,421,476	39,530,437	24,798,785	63%	20,976,714	3,822,071	18%
DEBT SERVICE FUNDS							
527 HIDDEN CREEK	_	_	_	n/a	_	_	n/a
333 DUNNE AVE. / CONDIT ROAD	- -	-	-	n/a	-	-	n/a
36 ENCINO HILLS	1,631	1,631	1,099	67%	1,755	(656)	-37%
39 MORGAN HILL BUSINESS PARK	447	447	191	43%	297	(106)	-3 <i>1</i> %
42 SUTTER BUSINESS PARK	730	730	403	43 <i>%</i> 55%	646	(243)	-36% -38%
445 COCHRANE BUSINESS PARK	119,887	119,887	111,840	93%	125,042	(13,202)	-36 % -11%
551 JOLEEN WAY	34,955	34,955	17,948	93% 51%	17,140	(13,202)	-11% 5%
JI JOLLEN WAT	J4,300	J <del>4</del> ,355	17,340	J1/0	17,140		J /0
OTAL DEBT SERVICE FUNDS	157,650	157,650	131,481	83%	144,880	(13,399)	-9%



FUND REVENUE	ADOPTED	AMENDED	CURRENT YTD	%	PRIOR	INCR (DECR) FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
INTERPRISE FUNDS							
40 SEWER OPERATION							
Sewer Service Fees	5,321,460	5,321,460	4,858,576	91%	4,571,787	286,789	6%
Interest Income	51,960	51,960	94,056	181%	121,935	(27,879)	-23%
Other Revenue/Current Charges	113,950	113,950	145,237	<u>127%</u>	121,576	23,661	<u>19%</u>
40 SEWER OPERATION	5,487,370	5,487,370	5,097,869	93%	4,815,298	282,571	6%
41 SEWER EXPANSION	00.500	00.500	00 004	0.400/	110.015	(55.004)	000/
Interest Income	26,580	26,580	90,381	340%	146,045	(55,664)	-38%
Connection Fees	600,000	600,000	2,134,809	356%	682,305	1,452,504	213%
Other			726	<u>n/a</u>	726		n/a
41 SEWER EXPANSION	626,580	626,580	2,225,916	355%	829,076	1,396,840	168%
42 SEWER RATE STABILIZATION	89,558	89,558	149,336	167%	308,725	(159,389)	-52%
43 SEWER-CAPITAL PROJECT	525,416	525,416	420,485	80%	465,028	(44,543)	-10%
OTAL SEWER FUNDS	6,728,924	6,728,924	7,893,606	117%	6,418,127	1,475,479	23%
50 WATER OPERATION							
Water Sales	5,738,350	5,738,350	5,758,159	100%	4,944,330	813,829	16%
Meter Install & Service	40,000	40,000	35,335	88%	49,366	(14,031)	-28%
Transfers-In, and Interest Income	1,045,785	1,045,785	1,027,728	98%	267,199	760,529	285%
Other Revenue/Current Charges	249,584	249,584	468,443	<u>188%</u>	315,247	<u>153,196</u>	<u>49%</u>
550 WATER OPERATION	7,073,719	7,073,719	7,289,665	103%	5,576,142	1,713,523	31%
551 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	501,803	501,803	569,900	114%	362,487	207,413	57%
Water Connection Fees	160,000	160,000	408,133	<u>255%</u>	131,454	276,679	210%
51 WATER EXPANSION	661,803	661,803	978,033	148%	493,941	484,092	98%
52 Water Rate Stabilization	20,517	20,517	8,763	43%	22,517	(13,754)	-61%
553 Water Capital Project	402,395	402,395	583,219	145%	1,001,959	(418,740)	-42%
OTAL WATER FUNDS	8,158,434	8,158,434	8,859,680	109%	7,094,559	1,765,121	25%
OTAL ENTERPRISE FUNDS	14,887,358	14,887,358	16,753,286	113%	13,512,686	3,240,600	24%
NTERNAL SERVICE FUNDS							
30 INFORMATION SERVICES	245,262	245,262	224,822	92%	349,422	(124,600)	-36%
40 BUILDING MAINTENANCE SERVICES	891,042	891,042	818,241	92%	767,379	50,862	7%
45 CIP ADMINISTRATION	1,447,120	1,447,120	1,185,017	82%	1,081,645	103,372	10%
60 UNEMPLOYMENT INSURANCE	29,452	29,452	22,088	75%	-	22,088	n/a
70 WORKERS COMPENSATION	687,700	687,700	652,994	95%	415,153	237,841	57%
90 EQUIPMENT REPLACEMENT	198,367	268,313	223,040	83%	496,371	(273,331)	-55%
93 CORPORATION YARD COMMISSION	160,005	160,005	192,614	120%	1,048,984	(856,370)	-82%
	the state of the s						00/
95 GENERAL LIABILITY INSURANCE	389,927	389,927	357,573	92%	327,209	30,364	9%



FUND			CURRENT			INCR (DECR)	
REVENUE	ADOPTED	AMENDED	YTD	%	PRIOR	FROM PRIOR	%
SOURCE	BUDGET	BUDGET	ACTUAL	OF BUDGET	YTD	YTD	CHANGE
AGENCY FUNDS							
841 M.H. BUS.RANCH A.D. I	736,175	736,175	383,355	52%	270,418	112,937	42%
842 M.H. BUS.RANCH A.D. II	37,177	37,177	36,550	98%	18,455	18,095	98%
843 M.H. BUS.RANCH 1998	883,205	883,205	418,949	47%	466,530	(47,581)	-10%
844 M.H. RANCH REFUNDING 2004A			760,610	n/a	-	760,610	n/a
845 MADRONE BP-TAX EXEMPT	807,439	807,439	399,887	50%	387,782	12,105	3%
846 MADRONE BP-TAXABLE	167,254	167,254	83,942	50%	122,529	(38,587)	-31%
848 TENNANT AVE.BUS.PK A.D.	39,523	39,523	66,717	169%	39,234	27,483	70%
881 POLICE DONATION TRUST FUND	245	245	344	140%	543	(199)	-37%
TOTAL AGENCY FUNDS	2,671,018	2,671,018	2,150,354	81%	1,305,491	844,863	65%
TOTAL FOR ALL FUNDS	81,880,133	82,335,360	66,288,695	81%	59,354,554	7,067,991	12%



		THIS						
FUND		MONTH						PERCENT OF
NO.	FUND/ACTIVITY	ACTUAL	ADOPTED	<b>AMENDED</b>	YTD	OUTSTANDING	TOTAL	TOTAL TO
		EXPENSES	BUDGET	BUDGET	<b>EXPENSES</b>	<b>ENCUMBRANCE</b>	ALLOCATED	BUDGET

GENERAL GOVERNMENT							
GENERAL GOVERNMENT							
COUNCIL AND MISCELLANEOUS GOVT.							
City Council	20,776	194,400	194,400	194,266	18,992	213,258	110%
Community Promotions	994	31,542	31,542	18,393		18,393	<u>58%</u>
COUNCIL AND MISCELLANEOUS GO	21,770	225,942	225,942	212,659	18,992	231,651	103%
CITY ATTORNEY	63,377	615,917	615,917	540,722	88,321	629,043	<u>102%</u>
CITY MANAGER							
City Manager	28,868	391,162	391,162	335,045	877	335,922	86%
Cable Television	965	45,236	46,986	38,257	7,370	45,627	97%
Communications & Marketing	11,095	106,576	111,834	91,582	5,360	96,942	87%
CITY MANAGER	40,928	542,974	549,982	464,884	13,607	478,491	87%
RECREATION							
Recreation	58,666	455,503	463,468	456,790	47,130	503,920	109%
Community & Cultural Center	42,864	739,223	766,023	478,130	115,776	593,906	78%
Aquatics Center	36,859	273,890	354,890	101,532	22,959	124,491	35%
Building Maintenance (CCC)	31,340	416,108	427,967	458,943	27,244	486,187	<u>114%</u>
RECREATION	169,729	1,884,724	2,012,348	1,495,395	213,109	1,708,504	85%
HUMAN RESOURCES							
Human Resources	41,166	582,687	582,687	495,665	-	495,665	85%
Volunteer Programs	1,831	34,442	34,442	20,994		20,994	<u>61%</u>
HUMAN RESOURCES	42,997	617,129	617,129	516,659		516,659	84%
CITY CLERK							
City Clerk	19,860	302,672	303,533	215,140	861	216,001	71%
Elections	26,750	70,576	70,576	59,813	<u>-</u>	59,813	85%
CITY CLERK	46,610	373,248	374,109	274,953	861	275,814	74%
FINANCE	57,889	889,208	891,223	821,323	203	821,526	92%
MEDICAL SERVICES	-		5,000		-	-	n/a
OTAL GENERAL GOVERNMENT	443,300	5,149,142	5,291,650	4,326,595	335,093	4,661,688	88%
PUBLIC SAFETY							
POLICE							
POLICE  DD Administration	24.000	404 744	404 744	4E2 084		450.004	000/
PD Administration	34,906	491,711	491,711	452,081	40.007	452,081	92%
Patrol	231,635	3,207,070	3,274,188	2,767,849	18,827	2,786,676	85% 97%
Support Services	67,992	897,092	897,092	771,190	4,882	776,072	87% 193%
Emergency Services/Haz Mat Special Operations	2,789	33,858 1,176,399	33,858 1,179,974	61,487 943,468	4,013	65,500 944,855	80%
Animal Control	81,932			,	1,387		
Dispatch Services	5,251 63,236	76,159 858,218	76,159 859,318	67,417 734,742	1,100	67,417 735,842	89% 86%
POLICE	487,741	6,740,507	6,812,300	5,798,234	30,209	5,828,443	86% 8 <b>6</b> %
FOLICE	407,741	0,740,307	0,012,300	3,790,234	30,209	3,020,443	00 /0
FIRE	312,081	3,745,220	3,745,220	3,432,896	-	3,432,896	92%
OTAL PUBLIC SAFETY	799,822	10,485,727	10,557,520	9,231,130	30,209	9,261,339	88%
I. COMMUNITY IMPROVEMENT							
PARK MAINTENANCE	64,250	810,323	822,840	615,495	26,382	641,877	78%
OTAL COMMUNITY IMPROVEMENT	64,250	810,323	822,840	615,495	26,382	641,877	78%



	Sitt of Mondian Time		92% Of fear	Completed				
FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
IV. TRA	NSFERS							
	Public Safety			834		-	-	n/a
						-	-	n/a
						-	-	<u>n/a</u>
TO	TAL TRANSFERS	-	-	834	-	-	-	n/a
TOTAL (	GENERAL FUND	1,307,372	16,445,192	16,672,844	14,173,220	391,684	14,564,904	87%
SPECIAL	L REVENUE FUNDS							
202 STR	EET MAINTENANCE	00.00=	4 500 700	4 070 000	4 204 202	440.000	4 440 000	050/
	Street Maintenance/Traffic Congestion Management	86,067 12,935	1,533,793 78,868	1,672,928 78,868	1,301,230 61,837	118,633	1,419,863 61,837	85% 78%
	Street CIP	28,750	514,800	1,136,206	657,261	256,180	913,441	80%
202 STR	EET MAINTENANCE	127,752	2,127,461	2,888,002	2,020,328	374,813	2,395,141	83%
		•				,	. ,	
204/205	PUBLIC SAFETY/SUPP.LAW	22,799	273,582	273,582	250,784		250,784	92%
206 COI	MMUNITY DEVELOPMENT FUND							
	Planning	92,267	979,437	1,224,253	1,096,453	219,021	1,315,474	107%
	Building	63,994	956,070	1,016,487	737,803	48,430	786,233	77%
	PW-Engineering	67,541	1,029,375	1,072,275	833,124	64,263	897,387	<u>84%</u>
206 COI	MMUNITY DEVELOPMENT FUND	223,802	2,964,882	3,313,015	2,667,380	331,714	2,999,094	91%
207	GENERAL PLAN UPDATE	2,998	71,257	197,413	60,322	89,411	149,733	76%
210	COMMUNITY CENTER	26,000	312,000	312,000	286,000	-	286,000	92%
215/216	CDBG	2,600	195,769	463,742	155,131	132,650	287,781	62%
220	MUSEUM RENTAL	169	2,422	2,422	2,035	-	2,035	84%
225	ASSET SEIZURE					-	<del>-</del>	n/a
229	LIGHTING AND LANDSCAPE	8,623	154,755	167,001	134,503	19,667	154,170	92%
232	ENVIRONMENT PROGRAMS	20,394	452,029	499,894	318,082	63,846	381,928	76%
234 235	MOBILE HOME PARK	15,895	39,661	339,661	106,824	256,397	363,221	107%
235 236	SENIOR HOUSING TRUST FUNI HOUSING MITIGATION FUND	-	14,300 1,033,497	14,300 1,033,497	6,450 13,340	2,150 1,660	8,600 15,000	60% 1%
230 240	EMPLOYEE ASSISTANCE	_	20,000	20,000	17,141	1,000	17,141	86%
0	LIIII LOTEL AGGIOTANGE	_	20,000	20,000	17,141	_	17,141	0070
TOTAL S	SPECIAL REVENUE FUNDS	451,032	7,661,615	9,524,529	6,038,320	1,272,308	7,310,628	77%
CAPITAI	L PROJECT FUNDS							
004	DADIC DEVELOPMENT		4 ===	0.444.45:	0== 00=	40= 000	400.00=	0001
301 302	PARK DEVELOPMENT	10,631	1,570,296	2,114,454	357,005 450,000	105,883	462,888	22% 75%
302 303	PARK MAINTENANCE LOCAL DRAINAGE	143	200,000 2,028,393	200,000 2,365,774	150,000 5,076	- 103,881	150,000 108,957	75% 5%
303 304	LOCAL DRAIN. NON-AB1600	3,420	191,868	2,365,774	103,006	7,642	110,648	5 <i>%</i> 51%
305	OFF STREET PARKING	0,420	3,986	3,986	4,058		4,058	102%
309	TRAFFIC MITIGATION	28,033	936,333	2,035,819	658,155	443,363	1,101,518	54%
311	POLICE MITIGATION	554	1,206,645	1,226,645	25,025	10,000	35,025	3%
313	FIRE MITIGATION	129	401,545	551,545	520,120	9,101	529,221	96%
317	RDA BUSINESS ASSISTANCE	2,348,769	27,346,151	41,163,703	27,722,576	6,493,088	34,215,664	83%
327/328	RDA HOUSING	822,684	4,592,332	9,688,767	5,314,767	58,768	5,373,535	55%
346	PUBLIC FAC.NON AB1600	432,154	9,808,000	9,846,656	2,376,555	1,401,335	3,777,890	38%
347	PUBLIC FACILITIES	822,505	831,229	958,621	969,109	2,470	971,579	101%
348	LIBRARY IMPACT	19	225	225	206	-	206	92%
350	UNDERGROUNDING	36	190,437	435,592	178,743	43,750	222,493	51%
TOTAL C	CAPITAL PROJECTS FUNDS	4,469,077	49,307,440	70,810,655	38,384,401	8,679,281	47,063,682	66%



		THIS		•				
FUND		MONTH						PERCENT (
NO.	FUND/ACTIVITY	ACTUAL	ADOPTED	AMENDED	YTD	OUTSTANDING	TOTAL	TOTAL TO
		EXPENSES	BUDGET	BUDGET	EXPENSES	ENCUMBRANCE	ALLOCATED	BUDGET
EBT S	ERVICE FUNDS							
27 26	HIDDEN CREEK A.D.	-	-	-	-	-	-	n/a
36	ENCINO HILLS A.D.	-	-	-	-	-	-	n/a
39	MORGAN HILL BUS. PARK A.D. SUTTER BUS. PARK A.D.	-	-	-	-	-	-	n/a
42 45	COCHRANE BUS. PARK A.D.	628	405 905	405 905	194,764	-	404.764	n/a 99%
45 51	JOLEEN WAY A.D.	628	195,805 40,540	195,805 40,540	40,512	-	194,764 40,512	100%
OTAL	DEBT SERVICE FUNDS	1,256	236,345	236,345	235,276	-	235,276	100%
		,		,			,	
NTERF	PRISE FUNDS							
EWER								
40	SEWER OPERATION	176,864	7,418,125	7,513,797	6,479,869	83,427	6,563,296	87%
41	CAPITAL EXPANSION	9,066	3,576,249	3,697,697	594,110	35,331	629,441	17%
42	SEWER RATE STABILIZATION	197	2,369	2,369	2,172	,	2,172	92%
43	SEWER-CAPITAL PROJECTS	130,466	437,843	1,616,022	666,879	339.683	1,006,562	62%
	SEWER FUND(S)	316,593	11,434,586	12,829,885	7,743,030	458,441	8,201,471	64%
VATER								
-AIER	Water Operations Division	742,691	6,213,247	6,894,997	5.244.239	539.414	5,783,653	84%
	Meter Reading/Repair	35.664	637,156	669,538	523,319	92,574	615,893	92%
	Utility Billing	26,267	391,570	394,863	324.692	9,453	334,145	85%
	Water Conservation	106	8,213	8,213	1,371	-	1,371	<u>17%</u>
50	WATER OPERATIONS	804,728	7,250,186	7,967,611	6,093,621	641,441	6,735,062	85%
50 51	CAPITAL EXPANSION	58,132	1,546,253	2,652,299	1,069,401	263,983	1,333,384	50%
52	WATER RATE STABILIZATION	70,879	850,551	850,551	779,672	203,303	779,672	92%
		-	-	•	•	400 200	•	
53 OTAL \	WATER-CAPITAL PROJECTS WATER FUND(S)	287,333 1,221,072	2,158,239 11,805,229	2,951,478 14,421,939	1,021,003 8,963,697	469,300 1,374,724	1,490,303 10,338,421	<u>50%</u> 72%
ΓΩΤΔΙ Ι	ENTERPRISE FUNDS	1,537,665	23,239,815	27,251,824	16,706,727	1,833,165	18,539,892	68%
		1,001,000	20,200,010	27,201,024	10,100,121	1,000,100	10,000,002	3370
NTERN.	AL SERVICE FUNDS							
30	INFORMATION SERVICES	27,292	245,262	262,996	191,791	32,019	223,810	85%
40	BUILDING MAINTENANCE	33,365	642,029	665,031	391,465	26,504	417,969	63%
45	CIP ENGINEERING	112,837	1,447,120	1,552,806	1,184,785	97,377	1,282,162	83%
<del></del>	UNEMPLOYMENT	11,332	30,000	30,000	39,650	-	39,650	132%
70	WORKERS COMPENSATION	35,862	697,200	736,200	690,809	27,075	717,884	98%
90	EQUIPMENT REPLACEMENT	147	251,761	260,878	43,612	208,564	252,176	97%
93	CORP YARD COMMISSION	9,478	160,005	170,920	170,034	53,926	223,960	131%
95	GEN. LIABILITY INSURANCE	5,993	371,600	371,600	388,111	-	388,111	104%
OTAL I	INTERNAL SERVICE FUNDS	236,306	3,844,977	4,050,431	3,100,257	445,465	3,545,722	88%
(GENC	Y FUNDS							
41	MORGAN HILL BUS RANCH I	680	723,706	723,706	2,010,287	-	2,010,287	278%
42	MORGAN HILL BUS RANCH II	680	38,838	38,838	141,917	-	141,917	365%
43	<b>MORGAN HILL BUS RANCH 98</b>	856	871,086	871,086	873,255	-	873,255	100%
44	MH RANCH RSMNT 2004A	58	,	,	590,139	-	590,139	n/a
45	MADRONE BP-TAX EXEMPT	628	799,731	799,731	808,791	-	808,791	101%
46	MADRONE BP-TAXABLE	629	172,343	172,343	171,662	-	171,662	100%
48	TENNANT AVE BUS PARK AD	029	172,040	112,073	17 1,002	•	17 1,002	n/a
48 81	POLICE DONATION TRUST	-	-	-	-	-	-	n/a n/a
ΌΤΔΙ	AGENCY FUNDS	3,531	2,605,704	2,605,704	4,596,051	-	4,596,051	176%
EPOR	T TOTAL	8,006,239	103,341,088	131,152,332	83,234,252	12,621,903	95,856,155	73%



City of Morgan Hill Enterprise Funds Report - Fiscal Year 2003/04 For the Month of May 2004 92% of Year Completed

#### YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

		Sewer Oper	rations			Water Ope	rations	
			% of	Prior			% of	Prior
	Budget	YTD	Budget	YTD	Budget	YTD	Budget	YTD
Operations								
Revenues								
Service Charges Meter Install & Service	\$ 5,321,460	\$ 4,858,576	91%	, , , , ,	\$ 5,738,350 40,000	\$ 5,758,159 35,335	100% 88%	49,366
Other	113,950	145,237	127%	121,576	249,584	573,460	230%	315,247
Total Operating Revenues	5,435,410	5,003,813	92%	4,693,363	6,027,934	6,366,954	106%	5,308,943
Expenses								
Operations Meter Reading/Repair Utility Billing/Water Conservation	4,533,215	4,058,840	90%	3,382,209	4,750,307 637,156 399,783	4,550,512 523,319 326,063	96% 82% 82%	- / - /
Total Operating Expenses	4,533,215	4,058,840	90%	3,382,209	5,787,246	5,399,894	93%	4,448,289
Operating Income (Loss)	902,195	944,973		1,311,154	240,688	967,060		860,654
Nonoperating revenue (expense)								
Interest Income Interest Expense/Debt Services Principal Expense/Debt Services	51,960 (856,625) (1,115,000)	94,056 (586,625) (1,115,000)	181% 68% 100%	(667,145)	, , ,	(,,	50% 14%	107,812 (164,273) (29,147)
Total Nonoperating revenue (expense)	(1,919,665)	(1,607,569)		(1,180,210)	(545,440)	(138,996)		(85,608)
Income before operating xfers	(1,017,470)	(662,596)		130,944	(304,752)	828,064		775,046
Operating transfers in Operating transfers (out)	- (913,285)	- (719,404)	79%	- (733,762)	1,045,785 (917,500)	871,487 (503,507)	83% 55%	
Net Income (Loss)	\$ (1,930,755)	\$ (1,382,000)		\$ (602,818)	\$ (176,467)	\$ 1,196,044		\$ (693,275)



City of Morgan Hill Balance Sheets - Water and Sewer Funds May 31, 2004 92% of Year Complete

	Sewer Operations (640)	Sewer Expansion Stabilization Capital Projects (641-643)	Water Operations (650)	Water Expansion Stabilization Capital Projects (651-653)
ASSETS				
Cash and investments:				
Unrestricted	3,136,232	6,683,619	2,736,741	3,516,216
Restricted <sup>1</sup>	1,893,425	6,318,237	389,957	(206,251)
Accounts Receivable		7,368		
Utility Receivables	776,209		1,140,518	
Less Allowance for Doubtful Accounts	(2,633)		(2,751)	
Notes Receivable <sup>2</sup> Fixed Assets <sup>3</sup>	31,802,422	9,911,459	23,624,143	8,620,811
Total Assets	37,605,655	22,920,683	27,888,608	11,930,776
LIABILITIES				
Accounts Payable and Accrued Liabilities Deposits for Water Services & Other Deposits Deferred Revenue 4	256,723	128,213	60,336 38,603	
Bonds Payable	25,390,000		5,985,863	
Discount on Bonds and Other Liabilities	(2,705,125)		(957,773)	
Accrued Vacation and Comp Time	41,966		88,959	
Total liabilities	22,983,564	128,213	5,215,988	0
FUND EQUITY				
Contributed Capital Retained Earnings	6,686,483		13,047,150	
Reserved for:				
Noncurrent water/sewer assets & debt	9,075,582	9,911,459	18,507,095	8,620,811
Encumbrances	83,427	375,014	641,441	733,283
Notes Receivable Restricted Cash	1,893,425	0	389,957	
	1,000,420			
Total Reserved Retained Earnings	11,052,434	10,286,473	19,538,493	9,354,094
Unreserved Retained Earnings	3,569,657	12,505,997	3,134,127	2,576,682
Total Fund Equity	14,622,091	22,792,470	22,672,620	11,930,776
<b>Total Liabilities and Fund Equity</b>	37,605,655	22,920,683	27,888,608	11,930,776

Restricted for Bond Reserve requirements and capital expansion.
 Includes Note for Sewer Financing Agreements.
 Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

<sup>&</sup>lt;sup>4</sup> Includes the deferred payment portion of the loans noted above.



City of Morgan Hill Balance Sheets for Major Funds - Fiscal Year 2003/04 May 31, 2004 92% of Year Complete

L/M Housing

RDA

	General Fund	KDA	L/M Housing	Sewer	water
	(Fund 010)	(Fund 317)	(Fund 327/328)	(Fund 640)	(Fund 650)
ASSETS					
Cash and investments:					
Unrestricted	11,228,237	4,377,224	6,213,180	3,136,232	2,736,741
	· · · · · ·	4,311,224	0,213,100		
Restricted <sup>1</sup>	4,150			1,893,425	389,957
Accounts Receivable	931,163	3,374	7,806		
Utility Receivables (Sewer and Water)				776,209	1,140,518
Less Allowance for Doubtful Accounts				(2,633)	(2,751)
Loans and Notes Receivable <sup>2</sup>	441,656	3,334,601	24,168,688		
Prepaid Expense					
Fixed Assets <sup>3</sup>		71,049		31,802,422	23,624,143
		1 1,040		01,002,422	20,024,140
Total Assets	12,605,206	7,786,248	30,389,674	37,605,655	27,888,608
LIADULTICO					
LIABILITIES					
Accounts Payable and Accrued Liabilities	297,656	20,181	13,352	256,723	60,336
Deposits for Water Services & Other Deposits	664,644	20,101	10,002	200,:20	38,603
Deferred Revenue 4	· ·	4 442 024	0.000.055		00,000
	608,062	1,143,834	6,286,255	05 000 000	5 005 000
Bonds Payable	400,004			25,390,000	5,985,863
Discount on Bonds and Other Liabilities	162,991			(2,705,125)	(957,773)
Accrued Vacation and Comp Time				41,966	88,959
Total liabilities	1,733,353	1,164,015	6,299,607	22,983,564	5,215,988
FUND EQUITY					
Contributed Capital				6,686,483	13,047,150
Fund Balance / Retained Earnings					
Reserved for:					
Noncurrent water/sewer assets & debt				9,075,582	18,507,095
Encumbrances	391,684	6,493,088	58,768	83,427	641,441
Restricted Cash	391,004	0,493,000	30,700	1,893,425	389,957
RDA properties held for resale		71 040		1,093,425	309,937
		71,049 2,190,767			
Loans and Notes Receivable		2,190,767	17,882,434		
Total Reserved Fund Equity	391,684	8,754,904	17,941,202	11,052,434	19,538,493
Designated Fund Equity <sup>5</sup>	7,300,000				
Unreserved/Undesignated Fund Equity	3,180,169	(2,132,671)	6,148,865	3,569,657	3,134,127
Total Fund Equity	10,871,853	6,622,233	24,090,067	14,622,091	22,672,620
<b>Total Liabilities and Fund Equity</b>	12,605,206	7,786,248	30,389,674	37,605,655	27,888,608

General Fund

<sup>&</sup>lt;sup>1</sup> Restricted for Petty Cash use, Bond Reserve requirements and sewer and water capital expansion.

<sup>&</sup>lt;sup>2</sup> Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.

<sup>&</sup>lt;sup>3</sup> Includes Water and Sewer infrastructure, the City's share of the Wastewater treatment plant and RDA properties held for resale.

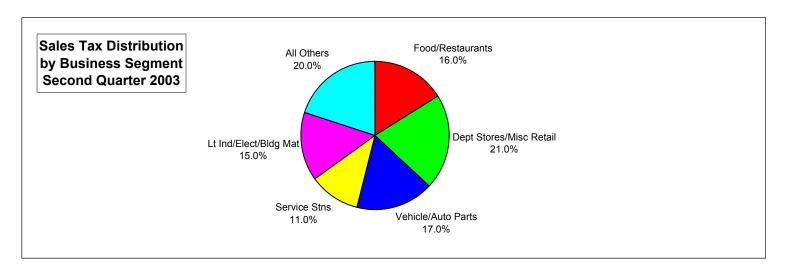
<sup>&</sup>lt;sup>4</sup> Includes the deferred payment portion of the loans noted above.

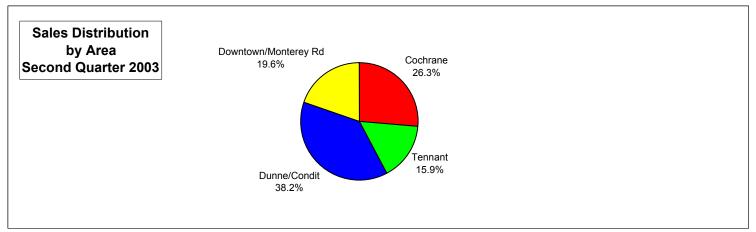
<sup>&</sup>lt;sup>5</sup> Designated for economic uncertainty, emergencies, and Fire Master Plan implementation



City of Morgan Hill Sales Tax Comparison - Fiscal Year 2003/04 For the Month of May 2004 92% of Year Completed

	<b>Amount Collecte</b>	d for Month fo	or Fiscal Year	Amount Colle	ected YTD for	Fiscal Year	Comparison of YT	D for fiscal years
Month	03/04	02/03	01/02	03/04	02/03	01/02	03/04 to 02/03	03/04 to 01/02
July	\$338,300	\$367,600	\$377,700	\$338,300	\$367.600	\$377,700	(29,300)	(39,400)
August	\$451,000	\$447,000	\$503,600	\$789,300	\$814,600	\$881,300	(25,300)	(92,000)
September	. ,	\$361,932	\$437,056	\$1,022,294	\$1.176.532	\$1,318,356	(154,238)	(296,062)
October	\$316,100	\$354,915	\$339,000	\$1,338,394	\$1,531,447	\$1,657,356	(193,053)	(318,962)
November	\$421,400	\$474,800	\$452,000	\$1,759,794	\$2,006,247	\$2,109,356	(246,453)	(349,562)
December	\$331,624	\$384,154	\$538,465	\$2,091,418	\$2,390,401	\$2,647,821	(298,983)	(556,403)
January	\$349,500	\$368,600	\$393,900	\$2,440,918	\$2,759,001	\$3,041,721	(318,083)	(600,803)
February	\$428,600	\$487,195	\$466,068	\$2,869,518	\$3,246,196	\$3,507,789	(376,678)	(638,271)
March	\$292,930	\$225,908	\$351,548	\$3,162,448	\$3,472,104	\$3,859,337	(309,656)	(696,889)
April	\$340,500	\$292,698	\$341,042	\$3,502,948	\$3,764,802	\$4,200,379	(261,854)	(697,431)
May	\$385,525	\$394,500	\$461,500	\$3,888,473	\$4,159,302	\$4,661,879	(270,829)	(773,406)
June		\$477,624	\$208,416		\$4,636,926	\$4,870,295		
Year To Da	ate Totals			\$3,888,473	\$4,636,926	\$4,870,295		
Sales Tax I	Budget for Year			\$4,650,000	\$5,330,000	\$5,300,000		
Percent of		e)		84%	87%	92%	-7%	-17%







RT SUBMITTAL	

Finance Director

Agenda Item # 2

Prepared By:

**Submitted By:** 

### MONTHLY FINANCIAL & INVESTMENT REPORECOMMENDED ACTION:

Direct staff to submit each month's Financial and Investment Report to the City Council on the fourth Wednesday of the following month, or, if no City Council meeting were scheduled on that date, to submit the report to the City Council on the third Wednesday of the following month.

#### **EXECUTIVE SUMMARY:**

The Finance & Audit Committee, currently comprised of Chair Mike Roorda, the City Treasurer, and Council Members Hedy Chang and Larry Carr, has directed staff to submit to the City Council a request to change the timing of the monthly Financial and Investment Report.

For more than ten years, staff has prepared the City's Monthly Financial and Investment Report. For many years, this report was submitted to the City Council on the regular Council meeting scheduled for the third Wednesday of the following month. This schedule meshed well with the regular monthly meetings of the Finance and Audit Committee when the Committee met on the third Wednesday of each month. However, the Committee has met on the fourth Wednesday of the month for more than a year and finds that it would be more consistent if the monthly report were submitted to the City Council on the same evening that the Committee normally meets. Staff therefore recommends that each monthly report be submitted to the City Council on the fourth Wednesday of the following month. However, if there were no City Council meeting scheduled for the fourth Wednesday of the month, which would typically occur in November and December, then the monthly report would be submitted to the City Council on the third Wednesday of the following month.

#### **FISCAL IMPACT:**

This change in the timing of the reports would have no direct fiscal impact on the City, but would facilitate financial planning and review by the Finance and Audit Committee.



Agenda 1	Item	# 3
D	ı n	

Prepared By:

**Contract Planner** 

Approved By:

Planning Manager

**Submitted By:** 

City Manager

SUBDIVISION, SD-04-01: COCHRANE – COYOTE ESTATES (Phases 9 through 11)

**RECOMMENDED ACTION:** Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

**EXECUTIVE SUMMARY:** The applicant is requesting 44 new lots within the 69.53-acre Coyote Estates development to account for supplemental building allocations distributed as a result of the passage of Measure "C" in March 2004.

Also requested is amendment of the approved Development Agreement to cover a total of 69 single-family residential units proposed within the subdivision (includes 25 units already approved and covered under the existing development agreement). The project is located on the east and west sides of Peet Road, north of Cochrane Road and south of Eagle View Drive.

Construction has been completed on Phases 1 through 6 of the project. Phase 7 has Final Map approval and is being constructed. The Tentative Map for Phase 8 was approved in accordance with the RPD and Precise Plan approved by City Council in July 2002. The boundaries of Phase 8 have been expanded to include the lots previously described as "Phases 8-10" on Tentative Map SD-03-11. Upon completion, the newly expanded Phase 8 will have 25 units, with two BMR units. The purpose of this Tentative Map application is to utilize the additional 44 building allocations, granted through the passage of Measure "C", throughout the project site. The application and Tentative Map describe these 44 additional building allotments as "Phases 9, 10 and 11". The lot sizes and locations are each per the approved RPD. The Development Agreement for this project must be modified to reflect this change and is addressed as a separate item on this agenda.

The Planning Commission considered this application at the regular meeting of May 25<sup>th</sup> at which time the Commission voted 7-0 approving the request. The Commission recommended minor changes to the Standard Conditions of Approval for clarification, which are described in the minutes attached to the Development Agreement Amendment report. The Commission resolution, conditions of approval, and subdivision map are attached for reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City for the costs of processing this application.

#### Attachments:

- 1. Planning Commission Resolution No. 04-52
- 2. Conditions of Approval
- 3. Subdivision Map



#### SUBDIVISION SD 04-08: TILTON-GLENROCK.

#### **RECOMMENDED ACTION(S):**

Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

#### **EXECUTIVE SUMMARY:**

A request for approval of a 24-lot subdivision map for phase 6 of the Capriano project located on the east side of Hale Ave., South of Tilton and west of Monterey Rd

Agenda Item # 4	_
Prepared By:	
Senior Planner	
Approved By:	
Planning Manager	
Submitted By:	
City Manager	

The current subdivision request is for 24-lots ranging in size from 5,418 to 15,187 sq. ft. The current subdivision request will utilize the project's remaining 2004-05 building allotments and develop approximately one half of the remaining R-1 12,000 area within the project.

On May 11, the Planning Commission recommended approval of the subdivision request along with a recommended RPD amendment which citing specific locations for the moderate rate units. After the May 11 meeting, the applicant found that two of the lots cited in the Commission's approval could not be adjusted to accommodate two of the proposed moderate rate homes. The applicant revised the development plan to show new locations for the moderate homes, however, that change caused the lot sizes to deviate from the tentative map reviewed and approved by the Commission on May 11. To conform to the new development plan lot layout, a revised tentative map was prepared and reviewed by the Planning Commission on June 8, 2004. The Commission voted 6-0 (Engles absent) recommending Council approval of the revised tentative map for phase 6 of the Capriano project.

The Planning Commission resolution, conditions of approval, and subdivision map are attached. The staff report for the subdivision is attached to the zoning amendment and development agreement request within this same agenda.

**FISCAL IMPACT:** No budget adjustment required



### EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES

#### **RECOMMENDED ACTION(S):**

Authorize the City Manager to Execute a Contract in the amount not to exceed \$63,000 for contract planning services. Approval of the contract extension is contingent upon City Council approval of Planning Division's Fiscal Year 2004-05 budget as recommended for contract labor services.

Agenda Item # 5
Prepared By:
Planning Manager
Approved /Submitted By:
City Manager

#### **EXECUTIVE SUMMARY:**

The proposed budget for FY 2004-2005 again includes funding to continue the services of a contract planner to assist with processing of current development applications. The audit report prepared by MAXIMUS on the City's development processing services recommended the Planning Division continue to contract for this position to help expedite processing of applications for new developments. While the economy has slowed, the number of planning applications that are in process has remained constant with the level of activity of a year ago. Continuation of the contract planner position is therefore needed to maintain current service levels. The terms of the contract remained unchanged except that the contract planner will be authorized to work a maximum of 24 hours per week. Under the previous terms, the contact planner worked on site 16 hours a week and performed 4 additional hours of work off site. All work under the contract will now be performed on site and the number of work days will increase from 2 ½ to 3 days per week. The additional time will help to off-set staff temporary staff reductions due to the retirement of the Department Director and assignment of additional administrative responsibilities to the Division Manager.

On September 18, 2002, the City Council approved a contract with Pacific Municipal Consultants to provide planning services through January 31, 2003. Subsequent extensions of the contract were approved with the most recent extension approved on December 17, 2003, extending the contract through the end of the current fiscal year (June 30, 2004). Staff is recommending the contract with PMC be extended under the current terms for another year through June 30, 2005.

#### **FISCAL IMPACT:**

The Planning Division has budgeted \$63,000 for contract labor under account number 41900 on page 119 of the proposed Fiscal Year 2004-05 budget. It is estimated that extension of the PMC contract through June 30, 2005 will cost approximately \$58,000.



#### AQUATICS CENTER RENTAL INSURANCE REQUIREMENTS

#### **RECOMMENDED ACTIONS:**

Endorse proposed policy concerning minimum insurance requirements for tenants who lease or operate Aquatics Center facilities.

**EXECUTIVE SUMMARY:** The new Aquatics Center (CCC) is available for rent. Five such groups have entered into or are about to enter into rental agreements for use of Center facilities. Three of these groups, Morgan Hill Swim Club, Morgan Hill Swim Club Masters, and Silicon Valley Aquatic Association, maintain liability insurance with a \$5 million per occurrence. The other two groups, Morgan Hill Water Polo and El Toro Brewing Company Masters Water Polo Club, maintain only a \$1 million policy.

City practice has been to require liability insurance from tenants of other City facilities in a minimum amount of \$1 million per occurrence. This appears to be adequate for these other facilities. However, if a larger claim liability were attributed to City, the City does have a \$10 million per occurrence limit, subject to a \$100,000 deductible, for most types of claims against the City, through the City's participation in the ABAG PLAN insurance pool of cities. While the City has this coverage if a large payout were required, the City would pay significantly higher premiums in following years.

Staff believes, and ABAG PLAN concurs, that a \$5 million per occurrence for aquatics activities is reasonable and prudent because there is a higher level of risk associated with operating municipal swimming pools. Even though the City has a comprehensive plan for safely operating the new Aquatics Center, accidents do occur in this type of environment. For example, a claim against the City of Walnut Creek for a swimming accident recently resulted in a \$27 million judgment against that city.

However, the two groups that only have a \$1 million limit cannot obtain higher coverage, according to their broker, with whom staff has spoken. The marketplace is not providing insurance above this level because of large payouts associated with water polo activities. ABAG PLAN staff did not disagree with this conclusion and have heard similar observations from other cities. ABAG PLAN did suggest that perhaps individuals, businesses, and/or foundations involved in local aquatics activities could provide additional insurance coverage through extensions of their own liability policies. Staff could inquire as to the feasibility of this approach with those involved in the local aquatics scene, but staff does not believe it is appropriate to demand that these individuals, businesses, and/or non-profits provide such insurance.

Therefore, staff recommends that the City Council endorse the following proposed policy:

1) Aquatics tenants shall provide liability insurance with at least a \$5 million per occurrence limit; and include endorsements naming City as additional insured & providing primary non-contributory language; and insurance shall be acceptable to City's Risk Manager & City Attorney, unless 2) applies.
2) If an organization is unable to obtain liability insurance of \$5 million per occurrence because of market conditions, as described in 1) above, then the City shall accept liability coverage of the maximum available, subject to a minimum of \$1 million per occurrence.

Based upon the level of available insurance, and to not delay use of the new facilities, staff planned to enter into rental agreements, prior to the opening of the Center, with the five groups described above.

**Fiscal Impact**: There is no direct fiscal impact that results from approving this policy. However, any large future claims against the City that would be paid by the City would affect insurance premiums to be paid by the City and would draw down on City reserves.

Agenda Item # 6
Prepared By:

Finance Director
Submitted By:

City Manager



REQUEST FOR COUNCIL COSPONSORSHIP OF THE POPPY JASPER FILM FESTIVAL

RECOMMENDED ACTION: AGREE TO CO-SPONSOR THE POPPY JASPER FILM FESTIVAL FUNDRAISER EVENT/FILM FESTIVAL IN NAME ONLY.

Agenda	Item	#	7
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Prepared/Approved

Council Services & Records Manager

**Submitted By:** 

City Manager

#### **EXECUTIVE SUMMARY:**

A request has been received from Aaron Blas, the public relations/advertising volunteer for the Poppy Jasper Film Festival Committee, that the City cosponsor a July 10 fundraising event to be held at the downtown Granada Theater as well as the November 12-14, 2004 Poppy Jasper Film Festival in name only. The Poppy Jasper Film Festival committee is not requesting monetary donations at this time, but is seeking a vehicle to publicize the two events. The City's cosponsorship will allow the Poppy Jasper Film Festival Committee to advertise the fundraiser and film festival events in *City Visions* and other City publications. This nonprofit event will serve as an effort to market the City's downtown as a tourist/visitor destination point by bringing filmmakers, guests and visitors from around California to Morgan Hill. (Please see the attached press release articles.)

Should the Council agree to cosponsor both events in name only, the Council can do so by minute action.

**FISCAL IMPACT:** No fiscal impact associated with cosponsorship of these events.



### REQUEST FOR COUNCIL SUPPORT OF AMERICANS FOR NATIONAL PARKS

Agenda Item # 8

Prepared/Approved By:

Council Services & Records Manager

**Submitted By:** 

City Manager

#### **RECOMMENDED ACTION:**

- 1) Adopt Resolution in Support of Americans for National Parks; and
- 2) Direct the City Clerk to forward a copy of the Resolution to the National Parks Conservation Association

#### **EXECUTIVE SUMMARY:**

A request has been received from Diane Boyd, Senior Outreach Manager with the National Parks Conservation Association, that the City adopts a resolution in support of national parks. The resolution, if approved by the Council, would express the City's support of the Americans for National Parks coalition and its guiding principals of securing congressional appropriations to ensure that the National Park Service can meet its mission and make up for previous funding deficiencies in a way that satisfies diverse park needs including science, resource protection, and education. By adopting the resolution, the City will become an official supporter of the *Americans for National Parks coalition*, sponsored by the National Parks Conservation Association, to maintain and preserve America's 388 national park units as the City sees fit. (See attached memo from Ms. Boyd for further information.)

Mayor Kennedy is recommending that the Council adopt the attached resolution.

**FISCAL IMPACT:** No fiscal impact.

#### **RESOLUTION NO.**

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL IN SUPPORT OF AMERICANS FOR NATIONAL PARKS.

WHEREAS the 388 units of America's National Park system contain 83 million acres of culturally, historically, and naturally significant lands that are home to 168 threatened and endangered species, an 80 million item museum collection, and 20,000 building of historic value.

WHEREAS National Parks generate substantial economic benefit for surrounding communities through local employment, tax revenues, visitor spending on meals and lodging, businesses expenditures to service visitors, and NPS expenditures for park employee salaries, supplies, services, construction projects, etc.

WHEREAS California's 23 national parks contribute over \$1.18 billion to the state economy and local communities and support 30,000 jobs.

WHEREAS a series of business plan analyses conducted by business and policy experts in conjunction with the National Park Service indicate that the Park Service's annual operations budget falls at least \$600 million, approximately 30 percent short of what is needed.

WHEREAS the National Park Service has identified a \$4.9 billion backlog of overdue maintenance, infrastructure repair and knowledge-related projects that is the direct result of decades of annual shortfalls in the parks' operating budget.

WHEREAS the Park Service has only one interpreter per 100,000 park visitors, visitor centers have reduced operating hours or have been closed altogether for months at a time, public education programs have been reduced or eliminated, scientific monitoring of flora and fauna has lapsed, historic buildings are allowed to deteriorate, priceless museum collections are piled up in corners or boxed up and stored in damp basements, and wildlife and Native American artifacts are being poached.

WHEREAS the air quality in our Sierra parks is of great concern and must be addressed.

WHEREAS Yosemite National Park 3.4 million visitors contribute over \$300 million to local economies, yet interpretive rangers on staff is at the lowest in a decade, campfire programs no longer exist, many positions have been eliminated, and the park struggles to maintain restrooms, trails, and campgrounds and is facing an annual shortfall of \$17 million.

WHEREAS Sequoia and Kings Canyon National Parks' 1.2 million visitors contribute over \$98 million to local economies, yet because of a \$14 million shortfall additional funding is needed to deter illegal marijuana cultivation, rent a new ambulance, provide education programs for Valley children and educators, and reopen four closed backcountry ranger stations.

WHEREAS Americans for National Parks is a coalition of nonprofit organizations, businesses, trade associations, government agencies, and other nonpartisan supporters of the national parks committed to protecting America's most inspiring and historic places.

WHEREAS Americans for National Parks is working to encourage Congress and the administration to address the funding needs of the National Park System, this year and every year by educating and mobilizing key decision makers, and building public demand for protecting park resources through media relations, advertising, and grassroots education.

WHEREAS we believe that the regions public lands could become a "significant tourist draw" for our community and that such additional visitors would add to our economic base in the form of tourism dollars.

WHEREAS we have not seen the budget of Yosemite or Sequoia/Kings Canyon National Parks keep up with inflation, maintenance needs, nor the visitor counts.

WHEREAS the guiding principles of Americans for National Parks consist of:

- 1. Congressional Responsibility: The coalition supports congressional appropriations sufficient to ensure that the National Park Service meets its mission "to conserve the scenery and the natural and historic objects and the wildlife" of the 388 national park units and "to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations,"
- 2. Addressing Park Deficits: The coalition believes that Congress must not only meet annual funding needs but also make up for previous funding deficiencies and cumulative shortages by securing funds to educate visitors and to protect wildlife, cultural and natural resources, historic structures, and other resources,
- 3. Business Management: The coalition supports the rigorous application of sound business and management principles in each park unit as developed jointly by the National Parks Conservation Association and the National Park Service with input from business and policy experts and local communities.
- 4. Diversity of Needs: The coalition supports an equitable distribution of funding to satisfy diverse park needs including science, resource protection, and education in addition to park infrastructure repair and enhancement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL that the City of Morgan Hill supports the Americans for National Parks Coalition, as defined by the guiding principles listed above, and supports legislative efforts to maintain and preserve America's 388 national park units.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

#### **\*** CERTIFICATION **\***

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at a Regular Meeting held on June 16, 2004.

#### WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
·	IRMA TORREZ, City Clerk



### CITY COUNCIL STAFF REPORT

**MEETING DATE:** June 16, 2004

RESOLUTION REQUESTING AUTHORIZATION UNDER **SECTION 21221(H) OF CALIFORNIA CODE FROM PUBLIC** EMPLOYEES' RETIREMENT SYSTEM (CalPERS) FOR BRUCE CUMMING TO BE EMPLOYED FOR MORE THAN 960 HOURS IN CALENDAR YEAR 2004

Agenda Item #9	
Prepared By:	
HR Director	
2222 222001	
Submitted By:	
City Manager	
City Manager	

#### **RECOMMENDED ACTION(S):**

Approve the Resolution requesting CalPERS for an extension for Interim Police Chief Bruce Cumming to be employed for more than 960 hours in calendar year 2004.

#### **EXECUTIVE SUMMARY:**

Bruce Cumming was appointed as Interim Police Chief beginning January 20, 2004. As a CalPERS retiree, he is limited to working only 960 hours per calendar year. Government Code Section 21221(h) allows for and provides direction for requesting an extension to the 960-hour limit. The City is nearing the end of the recruitment and selection process for appointment of a regular Police chief, however, it will not be completed before Interim Chief Cumming reaches his 960-hour limit in mid-July. A resolution passed by the City Council must accompany the City's request to CalPERS for the extension.

**FISCAL IMPACT:** None. The cost of the Employment Agreement will be covered by the salary savings for the budgeted Police Chief position.

#### RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REQUESTING AUTHORIZATION UNDER SECTION 21221(h) OF CALIFORNIA CODE FROM PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) FOR BRUCE CUMMING TO BE EMPLOYED FOR MORE THAN 960 HOURS IN CALENDAR YEAR 2004.

WHEREAS, on January 20, 2004 the City of Morgan Hill and Bruce Cumming entered into an Agreement to employ Bruce Cumming as an Interim Police Chief for the City of Morgan Hill; and

WHEREAS, it is in the interest of the City of Morgan Hill to employ Bruce Cumming to the extent necessary until recruitment of a regular Police Chief has been completed; and

**WHEREAS**, such continued employment would necessitate Bruce Cumming working more than 960 hours in the calendar year 2004; and

**WHEREAS**, the City of Morgan Hill is now in the final stages of completing the recruitment process for a regular Police Chief and is working diligently to complete Mr. Cumming's service to the City; and

**WHEREAS,** the City of Morgan Hill expects that this situation will require continuing service by Mr. Cumming until no later than September 15, 2004.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL THAT: Pursuant to California Government Code section 21221 (h), the City of Morgan Hill City Council requests the Public Employees' Retirement Board to allow Bruce Cumming to be employed more than 960 hours in calendar year 2004 only and directs the City Manager of the City of Morgan Hill to provide to PERS any pertinent information related to this request.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

#### **EXECUTION**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



## CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

### EXTENSION OF EMPLOYMENT AGREEMENT FOR INTERIM APPOINTMENT OF CHIEF OF POLICE

#### **RECOMMENDED ACTION(S):**

Authorize the City Manager to Execute an Extension to the Employment Agreement with Interim Police Chief Bruce Cumming in an amount not to exceed \$28,750, with all other conditions the same.

Agenda Item #10
Prepared By:
HR Director
Submitted By:
City Manager

#### **EXECUTIVE SUMMARY:**

Bruce Cumming was appointed as Interim Police Chief beginning January 20, 2004 for a period of four to six months. During the time the City Manager and Human Resources Director designed and are in process of a recruitment and selection plan for the appointment of a regular Police Chief. The recruitment period closed on June 11, 2004 and the selection process is expected to take approximately six to eight weeks. Interim Chief Cumming's employment contract expires on June 20, 2004 and provides that the parties may extend the term of the Agreement by written agreement. It is anticipated that a regular appointment will be made during the course of the extension.

**FISCAL IMPACT:** None. The cost of the Employment Agreement will be covered by the salary savings for the budgeted Police Chief position.



## CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

### ACCEPTENCE OF BUTTERFIELD BOULEVARD LINEAR PARK PROJECT

#### **RECOMMENDED ACTION(S):**

- 1. Accept as complete the Butterfield Boulevard Linear Park project in the final amount of \$393,746.56.
- 2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's Office.

Agenda Item # 11 Prepared By:
Associate Engineer Approved By:
Public Works Director
Submitted By:

City Manager

#### **EXECUTIVE SUMMARY:**

The construction contract for the Butterfield Boulevard Linear Park project was awarded to RMT Landscape Contractors, Inc. by City Council at their July 23, 2003 meeting in the amount of \$377,746.56, plus a ten percent contingency of \$37,774. The scope of work included constructing a meandering pedestrian pathway adjacent to Butterfield Boulevard, between Main and San Pedro Avenues. Other work included installing irrigation, decorative street trees, colorful vines, and mulch. During construction, one change order totaling \$16,000 was approved for the purchase and installation of City benches along the pathway. The final construction cost totaled \$393,746.56.

The City received funding in the amount of \$460,000 from the Transportation Enhancement Activity (TEA) fund for constructing the linear park. The City's required match was 11.47% or approximately \$60,000. Since the total construction costs were less than originally estimated, the City's portion equates to \$45,163 and the State's contribution is \$348,583.

The work was substantially complete by the end of November 2003 per the Plans and Specifications. However, during late December and early January, heavy rains filled the adjacent Butterfield storm drain channel and caused the previously installed sewer main trench and subsequently the linear park pathway to fail in various locations. The cause was determined to be from poor or improper trench compaction from the installation of the sewer main. The City is currently negotiating with the Contractor who installed the sewer main to repair the trench settlement and pedestrian pathway. Since the damage was no fault of RMT Landscape Contractors, Staff recommends accepting this project as complete.

#### **FISCAL IMPACT:**

The project was funded from CIP Project Number 106096 for \$415,521. The City's match requirement equates to \$45,163 of the final amount (\$393,746.56), which is funded by the Park Development Fund (301). The remaining amount of \$348,583 will be reimbursed by TEA funds. Thus far, the City has been reimbursed \$258,383.15.

Record at the request of and when recorded mail to:

CITY OF MORGAN HILL CITY CLERK 17555 Peak Avenue Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

### NOTICE OF COMPLETION CITY OF MORGAN HILL

#### BUTTERFIELD BOULEVARD LINEAR PARK

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 15th day of August, 2003, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to RMT Landscape Contractors, on July 23, 2003, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on November 26, 2003, accepted by the City Council on June 16, 2004, and that the name of the surety on the contractor's bond for labor and materials on said project is the First National Insurance Company of America.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner:	City of Morgan Hill 17555 Peak Avenue Morgan Hill, California
Dated:,	2004.
I certify under	Jim Ashcraft, Director of Public Works penalty of perjury that the foregoing is true and correct.
	Irma Torrez, City Clerk City of Morgan Hill, CA

Date:



## CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

## AWARD OF CONTRACT FOR CONSTRUCTION OF EDMUNDSON WATER MAIN DISTRIBUTION, PHASE I

#### **RECOMMENDED ACTION(S):**

1. Award contract to McGuire and Hester for the construction of the Edmundson Water Main Distribution project in the amount of \$349,699.

Agenda Item # 12
Prepared By:
Associate Engineer
Approved By:
Public Works Director
Submitted By:
City Manager

#### **EXECUTIVE SUMMARY:**

The scope of the work for this project includes installing a new 16" ductile iron water main along Cosmo Avenue between Monterey Road and Del Monte Avenue, including new valves/fittings, and all appurtenances to complete the work. This work is recommended in the City's 2002 Water System Master Plan in order to connect the Edmundson Reservoir tank to the majority of well sites east of Highway 101.

The bid opening was held on May 27, 2004 and the bids received are listed below. The low bidder is McGuire and Hester, with a bid 9% less than the engineer's estimate of \$386,000. McGuire and Hester had previously performed work for the City of Morgan Hill. Staff has reviewed the bid package for accuracy and completeness and has checked references per City procedures. Staff recommends award of the Contract to McGuire and Hester. The project is scheduled to commence in July and be complete by the end of October 2004.

McGuire and Hester	\$349,699
Monterey Peninsula Engineering	\$366,310
Don Chapin Company	\$366,951
Pacific Underground	\$385,175
West Valley Construction Company	\$414,410
Granite Construction Company	\$422,422
Lewis and Tibbitts, Inc.	\$459,005

#### **FISCAL IMPACT:**

The total contract cost for this project is \$384,670, which includes a 10% contingency of \$34,970. The project will be funded by the 2003-2004 Capital Improvement Program budget under Water Capital Expenditure Fund (651), Project #619002.



## CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

# APPROVE PROFESSIONAL SERVICES CONTRACT FOR FEASIBILITY ANALYSIS FOR INTERIM SEWER TRUNK CONNECTION

#### **RECOMMENDED ACTION(S):**

Authorize the City Manager to Execute a Professional Services Contract in the amount of \$35,410 with Schaaf & Wheeler for a feasibility analysis of an interim sewer trunk connection.

Agenda Item # 13
Prepared By:
Contract Project Manager
Approved By:
Public Works Director
Submitted By:

City Manager

#### **EXECUTIVE SUMMARY:**

The City relies on a single 24 to 27-inch trunk sewer to convey wastewater to the Wastewater Treatment Plant southeast of Gilroy. Growth of the City has increased the flow such that we are now approaching the sewer trunk's capacity. The 2002 Sewer Master Plan recommended that the City undertake construction of a second sewer trunk. The sewer trunk will be a 10-mile project, possibly in multiple phases, at an approximate construction cost in excess of \$10 million.

The new sewer trunk will be routed southerly in Monterey Road to Cohansey Road. However, below that point, it will not be possible to parallel the existing sewer trunk through built-up areas of downtown Gilroy. The preferred route south of Cohansey is on the east side of Highway 101. However, it may take considerable time to obtain rights-of-way and permits for the sewer trunk's route east of Highway 101 and the City has additional capacity in the existing trunk sewer within the Gilroy city limits not presently utilized. The purpose of this analysis is to determine whether there are feasible options for using the existing sewer trunk through Gilroy with an interim connection while the new easterly route is developed and approved. The analysis will determine how much time might be gained by use of an interim connection.

This sewer trunk project is consistent with the City's adopted General Plan and the 2002 Sewer Master Plan.

Staff solicited proposals from several engineering firms and received proposals from three firms. Schaaf & Wheeler submitted the most responsive proposal, with a proposed fee of \$35,410. The analysis will be complete in approximately two months, at which time we will report to Council with recommendations for options.

#### **FISCAL IMPACT:**

Funds for preliminary design of the new sewer trunk are budgeted in the current year CIP (#308094).



#### CITY COUNCIL STAFF REPORT

MEETING DATE: June 16, 2004

## AWARD OF CONTRACT FOR PARADISE PARK PLAYGROUND EQUIPMENT REPLACEMENT PROJECT

#### **RECOMMENDED ACTION:**

- 1. Award contract to Bellicitti & Pellicciotti Company, Inc. in the amount of \$79,990 for construction of the Paradise Park Playground Equipment Replacement Project.
- 2. Authorize an \$8,000 (10%) construction contingency.

Agenda Item # 14

Prepared By:

Dep Dir Public Works

Approved By:

**Public Works Director** 

**Submitted By:** 

City Manager

**EXECUTIVE SUMMARY:** On October 15, 2003 Council awarded a contract to Sanchez Grading to construct what had initially been called the "Paradise Park Play Equipment Replacement Project". However, the low bid was in excess of our available funding. Staff recommended executing a deductive change order eliminating the Play Equipment from the scope of work, but proceeding with other items of work including asphalt pathway and parking lot modifications and re-sealing, ADA accessibility improvements, and safety fencing. Council approved this recommendation and approved the contract award for the "Paradise Park Improvement Project".

The source of funds identified for improvements at Paradise Park was the State of Californian Department of Recreation Proposition 12 Per Capita Funding. Two other projects in our CIP, reimbursement for the Interim BMX Park and the San Pedro Ponds Trail Project were also funded by this source. However, the State did not approve use of the funds for reimbursing costs incurred from the Interim BMX park due to not having a long-term lease on the VTA Property thus freeing \$25,000 up for use on another eligible project. The San Pedro Ponds Project did not spend all the funds budgeted thus also leaving some funding available for other projects. Staff received approval to use these unused funds toward the Paradise Park Play Equipment Replacement Project.

Pursuant to the Public Contract Code, staff has received bids from three contractors for performing work to remove the existing play equipment and sand, replace the play equipment and place fibar surfacing for fall protection. The bid opening was Thursday June 3, 2004. The bids received are listed below:

Bellicitti & Pellicciatti \$79,990.00 G & G Builders Inc. \$86,458.00 ESR Construction \$104,700.00

Staff recommends approval of award of this contract to Bellicitti & Pellicciotti in the amount of \$79,990 and approval of a construction contingency of \$8,000 (10%). Work will be completed in August 2004.

**FISCAL IMPACT:** This project is funded with State of California Department of Recreation Proposition 12 Per Capita Funding as a part of the 2001-02 Capital Improvement Program (CIP) Budget, Project # 118001. Sufficient Proposition funding is available to fund the \$79,990 including a \$8,000 contingency.



## CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

## AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS

### RECOMMENDED ACTION(S):

- 1. Approve FY 04-05 professional services contract with Harris & Associates to provide contract plan checking services on an as-needed basis at a not-to-exceed fee of \$100,000, subject to adoption of the FY 04-05 budget.

Agenda Item # 15

Senior Civil Engineer

Public Works Director

**Prepared By:** 

Approved By:

**Submitted By:** 

City Manager

2. Authorize the City Manager to execute the contract, subject to review and approval by the City Attorney.

**EXECUTIVE SUMMARY:** Private development activity and its associated workload continue to extend beyond what the current staff is capable of reviewing. As such, additional assistance is needed to process the plans quickly to meet the State statues for plan review and provide services to guarantee the improvements are designed to City standards.

The City negotiated with Harris and Associates due to the expertise they have shown over the past six years in processing land development applications for the City of Morgan Hill. City staff believes that they will provide the best services for the projected costs. As in the past, it is anticipated that Harris personnel will continue to be used on a three day a week basis to assist City staff with the processing of land development applications. The funds to pay for these services are collected from the fees paid for land development processing.

**FISCAL IMPACT:** The contract cost for the contract plan checking services is \$100,000 and will be funded from our Contract Services sub-account in the Public Works Community Development Engineering account.



## CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

## CONTRACT FOR INFORMATION TECHNOLOGY MANAGEMENT SERVICES

**RECOMMENDED ACTION(S):** Authorize the City Manager to Execute an Agreement with the City of Palo Alto in an amount not to exceed \$150,000 for Information Technology Management Services Subject to the Review and Approval of the City Attorney

Agenda Item # 16
Prepared By:
Assistant to the City
Manager
Submitted By:
City Manager

**EXECUTIVE SUMMARY:** For the past nine years, the City has provided computer support services via a contract with independent companies. Based upon the City's previous experience using City employees for this service, using a vendor provides enhanced service, additional stability, and increased worker productivity. A vendor has many employees with varied experience and is able to utilize technicians with the appropriate level of expertise to each given task in order to address the broad range of City needs.

Since the City's contract with the existing vendor, Miller Networks, is expiring on June 30, the City's Information Technology Management Committee administered a competitive process for the new contract. Initial solicitations were sent to firms located throughout the Bay Area and eight firms submitted formal proposals. A short list of four firms was interviewed last month and the Committee selected the City of Palo Alto as the proposer best suited to the City's needs. Attached is a complete listing of the firms submitting proposals.

As a municipal entity, the City of Palo Alto has a combination of expertise and experience that is well-suited to the City's needs. They have a number of technicians capable of responding to immediate desktop problems and also the more-experienced staff needed to help guide the City's long term plans and technology purchases. In particular, their intimate knowledge of municipal operations will allow them to hit the ground running with minimal training and orientation. Palo Alto currently provides excellent IT management services to several other cities in the Bay Area.

In the interest of enhancing the computer services we receive, the proposed contract contains new customer service metrics that are tied to the vendor's compensation. While monitoring these metrics will require an increased level of contract management by City staff, it is anticipated that the productivity gains resulting from them will more than make up for the increased workload.

Staff recommends that the City Manager be authorized to execute the proposed agreement with the City of Palo Alto.

**FISCAL IMPACT:** \$150,000 in expenditures from the City will result from this action. This amount is currently proposed in the Information Systems Budget in line item 730-42231-2520 on page 282 of the 04/05 Budget. The source of these funds is an internal service user charge allocated to various operating budgets based on the number of computer users within a department.

## Firms Submitting Proposals to the City for Information Technology Management Services

City of Palo Alto\*
Miller Networks\*
Multimedia Consulting Services\*
Monterey Information Technologies\*
Polytron
Sun Valley Technical Repair
CMC Americas
Pylon Solutions

\* Firms Shortlisted and Interviewed



### CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

ADOPT ORDINANCE NO. 1676, NEW SERIES, AS AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF **APPROVING MORGAN** HILL AN AMENDMENT TO **ORDINANCE** NO. **AMEND** 1618, **NEW** SERIES. TO **DEVELOPMENT AGREEMENT DAA-02-09 FOR** APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A SIX-MONTH EXTENSION TO THE APPROVED DEVELOPMENT SCHEDULE. (APN 773-08-014).

Agenda Item # 17
Prepared By:
<b>Deputy City Clerk</b>
Approved By:
City Clerk
Submitted By:
City Manager

#### **RECOMMENDED ACTION(S):**

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1676, New Series, As Amended, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

#### **EXECUTIVE SUMMARY:**

On June 2, 2004, the City Council Introduced Ordinance No. 1676, New Series, As Amended, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

#### **FISCAL IMPACT:**

None. Filing fees were paid to the City to cover the cost of processing this project.

#### **ORDINANCE NO. 1676, NEW SERIES**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DAA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A SIX-MONTH EXTENSION TO THE APPROVED DEVELOPMENT SCHEDULE. (APN 773-08-014).

### THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-37, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u> <u>Total Dwelling Units</u> MMP-02-02: DeWitt – Marquez 5 single-family homes (4 allotments)

**SECTION 4.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 5.** The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the amended development agreement approved under Ordinance No. 1618, New Series, to allow for a sixmonth extension of the approved development schedule, due to delays not the result of developer inaction. Delays in project processing have occurred due to the extended period of time required to conduct the environmental analysis for the project. The amendment is granted, extending the deadline for building permit submittal for the two (2) building allotments awarded for 2003-04 to July 15, 2004, extending the deadline for building permit approval to September 30, 2004, and extending the deadline for commencing construction to December 31, 2004.

**SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 7.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 8.** AMENDED DEVELOPMENT AGREEMENT. The amended development schedule, attached as Exhibit "B", shall replace the schedule approved under Ordinance No. 1618, New Series.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the  $2^{nd}$  Day of June 2004, and was finally adopted at a regular meeting of said Council on the  $16^{th}$  Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>	
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>	
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>	
ABSENT:	<b>COUNCIL MEMBERS:</b>	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	<b>∞</b> <u>CERTIFICATE C</u>	OF THE CITY CLERK 03
CALIFORN 1676, New S	NIA, do hereby certify that the for	<b>RK OF THE CITY OF MORGAN HILL</b> egoing is a true and correct copy of Ordinance No cil of the City of Morgan Hill, California at thei 004.
WIT	NESS MY HAND AND THE S	EAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk

#### **AMENDED EXHIBIT "B"**

### FY 2003-04 (2 allotments), FY 2004-05 (2 allotments) DEVELOPMENT SCHEDULE MMP-02-02: Dewitt – Marquez Subdivision

Ī.	SUBDIVISION AND ZONING APPLICATIONS Applications filed:	10-08-02
II.	SITE REVIEW APPLICATION Application filed:	11-20-02
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	12-01-03
IV.	BUILDING PERMIT SUBMITTAL FY 2003-04 Submit plans to Building Division for plan check: FY 2003-04 Submit erosion control plan FY 2004-05 Submit plans to Building Division for plan check:	7-15-04 7-15-04 1-15-05
V.	BUILDING PERMITS FY 2003-04 Obtain Building Permits: FY 2004-05 Obtain Building Permits:	<b>9-30-04</b> 3-31-05
VI.	COMMENCE CONSTRUCTION FY 2003-04 Commence Construction: FY 2004-05 Commence Construction:	<b>12-31-04</b> 6-30-05

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Building Permit application three (3) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least two (2) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



### CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

ADOPT ORDINANCE NO. 1677, NEW SERIES, AS AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.

Agenda Item # 17
Prepared By:
<b>Deputy City Clerk</b>
Approved By:
City Clerk
Submitted By:
City Manager

#### **RECOMMENDED ACTION(S):**

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1677, New Series, As Amended, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

#### **EXECUTIVE SUMMARY:**

On June 2, 2004, the City Council Introduced Ordinance No. 1677, New Series, Amending the following sections: 1) 18.78.280.B.2b to include grey water (recycled water) system for irrigation; 2) 18.78.280.4a amended to award 2 points for use of multi-unit court yard interior to the project; 3) 18.78.280.5 deleted; and 4) Section 18.78.320B.2d amended to increase the water conserving plant selections from 50% to 75% in the landscape design by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

#### **FISCAL IMPACT:**

No budget adjustment required.

#### **ORDINANCE NO. 1677, NEW SERIES**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.

### THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN:

SECTION 1. The Residential Development Control System (RCDS) is codified at Chapter 18.78 of the Municipal Code. Measure C, approved by the voters on March 2, 2004, and adopted under Ordinance No. 1665, requires the City Council to amend Article II of Chapter 18.78 of the Municipal Code, the "Specific Policies" as necessary to conform to all provisions of this initiative. In accordance with Measure C and other changes as recommended by the Planning Commission, the City Council hereby updates and amends the provisions of Article II and Article III of Chapter 18.78, and accordingly adopt the Code amendments set forth below.

Changes from the text of the Morgan Hill Municipal Code are shown in the following sections amending Articles II and III by strike-out text for deletions, and bold italic text for additions.

#### **Article II. Specific Policies**

#### **18.78.180** Background.

- A. The residential development control system was adopted in response to the need to establish a growth rate in Morgan Hill that is conducive to orderly and controlled residential development. The success of any growth-management system depends upon how well it addresses and exemplifies the goals of the general plan, as well as other adopted city ordinances and documents. Any requirements made by this system shall use existing city plans and policies, as well as exploring innovative means to facilitate its implementation.
- B. The residential development control system is a competitive qualifying process intended only to compare projects and allow the highest scoring projects to proceed on in the development process. Developers and city staff should not construe it as a design review or an absolute approval with any entitlement other than the right to file a tentative map or development plan. Changes to the project (1) are encouraged to improve its quality; and (2) may be required for formal project approval.
- C. Concerns have been expressed about the Morgan Hill Unified School District (MHUSD) impaction situation and the fact that the rural character associated with the city is being lost to urban development that is outstripping the city's ability to provide adequate services and facilities. Also, a disproportionate amount of moderate to expensive single-family homes have been built, as opposed to a balance of housing types at prices to meet the needs of all the segments of the population, including those of low or fixed incomes. It is intended that a

response to these concerns will be accomplished in a practicable manner through implementation of the residential development control system, which will concurrently address the preservation of open space and the natural environment. (Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.182** Rate of growth.

The method by which controlled growth will be accomplished involves building approximately two hundred fifty\* new dwelling units annually in order to reach a population not to exceed thirty-eight thousand eight hundred forty eight thousand people by the year 2010 2020.

\* The number of building allotments authorized under the RDCS may be less than two hundred fifty units per year because of other housing which would be exempt from the RDCS (construction of single dwellings, etc.) (Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.184** Procedures.

- A. In May of each year preceding an allotment evaluation, the planning officer and planning commission will provide recommendations to the city council regarding the total number and distribution of building allotments. The city council will establish the total number of housing units to be awarded and the number of units to be allotted for each type of housing.
- B. The planning officer will inform interested developers of the total number of units available and the various types of housing units that will be approved. The planning officer will hold a pre-competition meeting with all persons interested in submitting an application. The planning officer will explain the allotment process and distribute applications. At this meeting developers will be encouraged to indicate the proposed project location, the number of units, and the type of housing. This information will assist the city and developers in providing better competition for the various types of housing units to be built under the RDCS process.
- C. In an attempt to further increase the quality of project design, a voluntary preliminary review process shall be implemented. This review process shall have staff priority in the months of June, July, and August whereby responses to these submittals shall be received within four weeks from the date of filing. These responses shall include, but not be limited to, the following: (1) Section A evaluation; (2) Section B evaluation, (3) any recommendations for project improvement; (4) any public health, safety and welfare issues; (5) any need for any additional information, plans or studies. (Ord. 1179 N.S. § 1, 1994; Ord. 1034 N.S. § 1 (part), 1991)

#### 18.78.186 Overview.

- A. The first section (Section 18.78.200) is concerned with the general ability of the city to provide major public facilities and services to new residential projects without creating additional impaction. This section is weighted heavily, meaning that a proposed project must obtain the minimum required points (nine points) and receive minimum passing scores under certain categories in order to proceed to the next step of the evaluation.
- B. The next step, (Section 18.78.210) reflects the quality of the project design and the extent to which it contributes to the welfare of the community. The intent of these criteria is to encourage competition and to promote additional effort which creates innovative designs that satisfy user needs. The standards and criteria in Part 2 of this article are guidelines, and it is important to note that a developer is not precluded from improving upon or augmenting these guidelines, upon approval of the planning officer. Criteria for each category in Part 2 of this article are, therefore, more subjective and, thus, merely points out those items which the developer should consider to maximize his rating.
- C. After successful completion of both Parts 1 and 2, the projects which have received at least nine points in Part 1 and have been given the most points in Part 2 (one hundred twenty-five points and over) with minimum passing scores in certain categories will then be eligible for allotments and subsequent building permits, subject to Section 18.78.120. Those that may not receive any allotment this year will have an opportunity to improve their designs and reapply during the next competition.
- D. The procedure for allotting development allotments has been incorporated into this system. The development allotment evaluation encourages all developers to locate and design the best project possible by following standards and criteria for both Sections 18.78.200 and 18.78.210. (Ord. 1034 N.S. § 1 (part), 1991)

#### 18.78.188 Additional information.

- A. Project Size. Council priority is to give priority to partially completed projects. This policy will allow continuity to the allotment process. The portion of the uncompleted project competing in a competition should be equal to or superior in quality to the original project receiving an allocation. Project applications for over one hundred fifty units will be considered based on benefits to the community.
- B. Public Notices. The council policy of notifying neighboring properties within three hundred feet of proposed projects is expanded to give a greater number of people notice by means of the utility bill inserts and notice on cable TV.
- C. Review of Standards and Criteria. The planning commission shall review the standards and criteria each May March, following an RDCS competition, to determine whether

any changes or amendments are necessary for the next competition, to begin each new allotment year, within sixty days after the awarding of allotments. (Ord. 1034 N.S. § 1 (part), 1991)

#### 18.78.190 Evaluation-Standards and criteria.

- A. As provided for in Section 18.78.100 A, the planning officer shall review each application and determine whether or not the proposed development conforms to the City's General Plan. In addition, the planning officer shall review each application for conformance with the following: City street, parking and site development standards as set forth in Chapter 17.34 and Title 18 of the Morgan Hill Municipal Code. If the PO determines that a proposed development does not conform to the city codes as cited above, the application shall be rejected. Notice of such rejection shall be given pursuant to Section 18.78.100 A.
- B. Within fifteen days after such notice is mailed, the applicant may appeal the decision of the PO to the city council as provided in Section 18.78.100 B. In considering an appeal the city council shall either affirm the decision of the PO to reject the application on the basis of nonconformity with the plans (General Plan and City Codes), or reverse the decision by finding that the proposed development is in conformity with the plans, or permit the applicant to modify his proposed development to bring it into conformity with the plans.
- C. Proposed developments found by the PO or city council to conform to the General Plan shall be evaluated by the PO and awarded points as hereinafter set forth. The planning commission shall establish a specific set of standards and criteria to direct the PO in assigning points under each category in Parts 1 and 2 of this article. The PO shall submit his evaluation to the planning commission and the commission shall approve, disapprove or modify the PO's evaluation by simple majority vote. (Ord. 1179 N.S. § 2, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 1. Point System

#### 18.78.200 Rating system for proposed developments.

Each proposed development shall be examined for its relation to and impact upon local public facilities and services. The appropriate city department or outside public agencies shall provide recommendations to the PO, and the PO shall rate each development by assigning from zero to two points for each of the following:

A. 1. "The capacity of the appropriate school to absorb the children expected to inhabit a proposed development without necessitating or adding to double sessions or other unusual scheduling or classroom overcrowding." (Written evaluation of the MHUSD.)

- 2. Each subdivision application shall be reviewed by the MHUSD for determination of impact on school classrooms and facilities. The MHUSD shall determine the potential number of children per household according to the district-wide average.
- 2 Points. Double sessions or unusual scheduling or classroom overcrowding do not exist, nor will the proposed subdivision create double sessions or unusual scheduling or classroom overcrowding.
- 1 or 1.5 Points. Double sessions or unusual scheduling or classroom overcrowding exist prior to the subdivision application, and mitigation measures result in fewer students on double session or unusual scheduling or classroom overcrowding.
- O Points. The proposed subdivision would create double sessions or unusual scheduling or classroom overcrowding. Double sessions or unusual scheduling or classroom overcrowding exist prior to the subdivision application, and mitigation would result in the same or a greater number of students on double sessions or unusual scheduling or classroom overcrowding (or in any way fails to meet the standards for one or two points). (Ord. 1034 N.S. § 1 (part), 1991)
- $\mathbf{B}A$ . 1. The ability and capacity of the water system to provide for the needs of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments of the director of public works.)
- 2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the water system to provide for the needs of the proposed development.
- 2 Points. The existing water system and improvements that upgrade water service and fire protection in the general neighborhood such as gridding, well, or booster pump, are provided as determined by the director of public works.
- 1 or 1.5 Points. The existing water system has adequate capacity to serve the development and improvements would tie into existing water mains without gridding or otherwise providing upgrades to the existing water system.
- 0 Points. The existing water system and improvements necessary for water service or fire protection will tax the existing system beyond the city's ability to provide adequate service.
- $\in$  **B**. 1. "The ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the director of public works.)
- 2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste generated by the proposed development.
- 2 Points. Existing sewer lines and treatment plant have sufficient capacity to serve the project.

- 1 or 1.5 Points. Extension of existing sewer lines directly from the project, and the sanitary waste generated by the project which taxes the existing line capacity is mitigated as determined by the director of public works, and there is sufficient capacity in the treatment plant.
- 0 Points. The proposed development would adversely impact the existing line capacity or treatment plant, or the existing line capacity is insufficient to handle the waste generated by the proposed project (or in any way fails to meet the standards for one or two points).
- $\Theta$  *C*. 1. "The ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the Santa Clara Valley Water District and the director of public works.)
- 2. Each subdivision application shall be reviewed by the director of public works and Santa Clara Valley Water District for determination of the ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development.
- 2 Points. Local drainage generated by the project is capable of draining into existing storm drainage facility, or permanent public improvements to carry the runoff into a receiving drainage way which has sufficient capacity is provided.
- 1 or 1.5 Points. Local drainage generated by the project is mitigated by use of private onsite detention with higher value given for permanence, quality and guaranteed maintenance.
- 0 Points. Local drainage generated by the project is not capable of draining into the existing permanent storm drainage facility (or in any way fails to meet the standard two points).
- $\mathbf{E}$  **D**. 1. "The ability of the *city-designated* fire department of the city, or other agency pursuant to a contract or mutual aid agreement, to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment or personnel to an existing station, and the ability of the police department to provide adequate patrols for residential and traffic safety without the necessity of acquiring new equipment or personnel." (Comments from the fire and police departments.) (Ord. 1034 N.S. § 1 (part), 1991)
- 2. Each subdivision application shall be reviewed by the fire and police departments for the determination of the ability of the fire department to provide fire protection according to the established response standards and the ability of the police department to provide adequate patrols for residential and traffic safety. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.
- 1.5 Points. Fire protection response times are within the established response standards of the city from at least two fire stations.
- 1 Point. Fire protection response times are within the established response standards of the city from at least one fire station and no more than 15% in excess of the response time standard from a second station.
- .5 Points. Fire protection response times are within the established response standards of the city from at least one fire station.

- 0 Points. The project cannot be served by the existing fire personnel without requiring additional stations, equipment or personnel (or in any way fails to meet the standard for a .5 point total above)
- .5 Points. The project adjoins existing developed land with proper road access for maximum efficiency of police patrols.

NOTE: For scoring purposes, the city Fire Department or contract agency, shall publish on July 1 of each competition year, a map showing the area which can be serviced within the established fire response time standard from the California Division of Forestry facility located on Monterey Road at Watsonville Road.

- F. 1. "The ability and capacity of major street linkage to provide for the needs of the proposed development without substantially altering the existing street system (the desired target traffic level being no worse than "D+" "C" level of service as defined in the 1985 Transportation Research Board Report # 209), except as otherwise allowed in the General Plan, and the availability of other public facilities (such as parks, playgrounds, etc.) to meet the additional demands for vital public services without extension of services beyond those provided by the developer." (Comments from the appropriate department heads.)
- 2. Each subdivision application shall be reviewed by the director of public works and parks and recreation director for determination of the ability and capability of major street linkage to provide for needs of proposed development and of the availability of other public facilities, such as parks and playgrounds, to meet the additional demands. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.
- 2 Points. The project can be served by the existing parks and street systems, and the completion of the project will not overload any local, collector or arterial street in the immediate area.
- 1 or 1.5 Points. The project can be served by the existing parks and street systems as defined above, and if there are public off-site improvements, they are relatively minor and the project will not contribute to the need for major street improvements.
- 0 Points. Compliance to Chapter 17.28 of this code. The project cannot be served by the existing street system, and will contribute to the need for major off-site public improvements (or in any way fails to meet the standard for one or two points).

NOTE: Development may be evaluated on an individual basis on its ability to provide private recreational service for its residents that complement city services, i.e., trails, private open space, association facilities, etc. All proposed trails, private open space and associated facilities should be permanently secured with appropriate documentation at the time of development. (i.e., deeds, easements, C.C.& Rs., dedication, homeowners associations, etc.).

Land that is set aside for the above mentioned items as a nonpermanent use, could dedicate all future development rights to the city. This procedure is to allow neighborhood control over land that may not be needed in the future (i.e., storm water retention areas). (Ord 1323 N.S. §§ 36 and 37, 1997; Ord. 1228 N.S. § 1, 1995; Ord. 1179 N.S. §§ 3 & 4, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 2. Specific Standards and Criteria

#### 18.78.210 Schools.

#### A. Point Range and Policies.

21	25	High quality
21	23	0 1 1
<del></del>	<del>20</del>	Above average
11	15	Average
11	13	· ·
<del></del>	10	Below average
	5	Poor quality
V	9	1 oor quarity

1.—"The provision of *school facilities and* amenities needed schoolrooms in the form of permanent or relocatable buildings or the provision of other mitigating measures as attested by agreement with the Morgan Hill Unified School District (MHUSD) to the extent such consideration is not in conflict with state law.

#### B. Standard and Criteria:

- 1. **Seventeen points** will be awarded for the payment of the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998. Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities.
  - 2. Up to **four** six additional **points** may be awarded to a project where:

At the time of application submittal or applicant commits as part of the first year of the first phase of the current application, a safe walking route exists *or will be provided* between the project site and existing or planned MHUSD schools. A safe route is defined as providing continuous sidewalks and/or paved pedestrian pathways, cross walks and caution signals at designated street intersections between the project and a school site.

The distance to a school is measured as the lineal distance a student would walk, from the average center point of housing in a project to the nearest entrance point of the nearest school grounds.

- a. The project is within 3/4 of a mile of a school serving grades K through 3 and:
- i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service *as determined by the Public Works Department*) as a collector or arterial. (half point)
- ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as a collector or arterial. (half point)
  - b. The project is within 3/4 of a mile of a school serving grades 4 through 6 and:
- i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service *as determined by the Public Works Department*) as an arterial. (half point)
- ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial. (**half** one point)
  - c. The project is within 1.5 miles of a middle/intermediate school and :
- i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service *as determined by the Public Works Department*) as an arterial unless the most direct street crossing can occur at a signalized intersection. (half point)
- ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial unless the most direct street crossing can occur at a signalized intersection. (half one point)
  - d. The project is within 1.5 miles of a high school. (one two points)
- e. Proposed development will be for senior citizens as defined in Section 51.2 of the State Civil Code. (**four** *six* **points**)

**NOTE:** For scoring purposes, the anticipated attendance area for an existing or planned school shall be as determined by the Board of Education and published by the School District as of December 1 September 30 of the fiscal year for each competition year. A planned school is defined as a site designated by the School Board for a future school prior to March 1st September 30 of the fiscal year the competition is held. Scoring for a multi-year/phased development includes recognition of all pedestrian safety or traffic improvements provided in the initial or previous phases of the development.

- 3. Up to **four additional points** may be awarded to a project which:
- a. Provides off-site pedestrian safety improvements or traffic safety improvements near a MHUSD school. Improvements must be located within 1.5 miles (straight line distance) of a project site. Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other categories. The cost of the improvements must be valued at \$ 1000 1100 per point per unit. For scoring purposes, priority will be given to The pedestrian improvements and traffic safety improvements must be made to an elementary school within 3/4 of a mile (straight line distance) of the edge of project site or the same improvements can be made to a middle or high school within the City's Urban Service Area. (up to three points)

<u>Note:</u> The public improvements offered under the above section must be separate from the public improvements offered under Section B.1.f of the Public Facilities Category, Section B.3.a thru c of the Circulation Efficiency Category or B.5 of the Livable Communities Category.

b. The project is located within a Community Facilities (Mello-Roos) District established by the Morgan Hill Unified School District to finance new school facilities. The proposed project phase(s) will only receive points in this category if their Mello-Roos payment exceeds by \$ 1000 1100 or more per dwelling unit the Leroy F. Greene School Facilities Act (state-mandated) fees in effect on December 1st of the fiscal year of the competition. One point will be awarded for each \$ 1000 1100 per dwelling unit the proposed project's average dwelling unit school fees costs exceeds the state-mandated per dwelling unit fees. (up to three points)

**NOTE:** Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities. (Ord. 1575 N.S. § 1, 2002; Ord. 1517 N.S. § 1, 2001; Ord. 1486 N.S. §§ 1 & 2, 2000; Ord. 1404 N.S. § 1, 1998; Ord. 1346 N.S. § 1, 1997; Ord. 1304 N.S. §§ 1 & 2, 1996; Ord. 1228 N.S. § 2, 1995; Ord. 1179 N.S. §§ 5 & 6, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.220** Open space.

#### A. Point Range and Policies.

<del></del>	20	High quality
14	17	Above average
<del></del>	13	<del>- Average</del>
5	9	Below average
0	4	Poor quality

- 21. The provisions of open space is desirable for the physical and mental well-being of the city residents, as well as preserving a rural atmosphere and invoking a positive reaction to the environment. These open spaces can then be used for both passive and active recreation for all age groups, while also preserving the environment for present and future generations to enjoy.
  - B. Standards and Criteria.
  - 1. Open space areas are provided or maintained within the proposed development.
- a. Provides open space buffer areas adjacent to freeway or arterial streets, measuring five feet in depth in excess of the zoning code requirements for **one point**, 10 feet in excess of the code for **two points**. (up to two points);
- b. Public or private common useable open space is encouraged where neighborhood homeowners associations or other acceptable private maintenance entity can be used to coordinate their use and maintenance (three points);
- c. Provides convenient access to public or private parks internal to the project where appropriate through the use of bicycle and pedestrian pathways. Bicycle and pedestrian pathways shall be located in areas no less than 20 ft. wide, with an average width of 30 ft. (for the entire length of the path). The pathway provided shall be paved or other suitable durable surface and a minimum of 7 ft. in width. The proposed pathway(s) cannot be redundant of public sidewalks. (one point)
- d. Provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple uses and fee dedication of open space areas adjacent to flood control right of ways and recharge facilities. Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities. The access provided cannot be redundant of the public sidewalk. (one point).

**Note:** Requires public agency ownership or agreement to accept dedication of the land by the public agency.

- e. Historical sites and landmarks on or adjacent to the project site are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc. (up to two points)
- 2. Provides a high ratio of total open space area. (A maximum of eleven points will be assigned under this criteria)

Building Cove	erage (%)	<u>Points</u>
45 -	< 50	3
40 -	< 45	4
35 -	< 40	5
30 -	< 35	6
25 -	< 30	7
20 -	< 25	8
15 -	< 20	9
10 -	< 15	10
0 -	< 10	11

Building coverage is defined as that portion of the overall project master plan, exclusive of driveways and streets, which is covered by a building, parking lot or carport.

- 3. There is a maximum of **6 points** available in this category.
- a. The project will receive **three points** for a commitment to purchase transferable development credits (TDCs) from property owners with land of greater than twenty percent slope. (Based upon the cumulative project to date ratio of one TDC for every twenty-five dwelling units proposed.)
- b. Projects of 24 units or less which do not provide a common area park or open space will receive **six points** for a commitment to purchase double TDC's.
- c. Projects zoned R-2, R-3, or similar higher density classification will receive **six points** for a commitment to purchase double TDC's.
- **Note 1**: In lieu of the TDC commitment, projects of 24 units or less and affordable project developments will be awarded **four points** for payment of an open space fee at the rate of \$15,000 per TDC. Eligible projects that elect to pay double the open space fee will be awarded **six points**. The amount of the open space fee shall be based on the average cost per dwelling

unit for an equivalent TDC commitment as specified above. The open space fee shall be adjusted annually in accordance with the annual percentage increase or decrease in the median price of a single-family detached home in Santa Clara County. The base year from which the annual percentage change is determined shall be January 1, 1996. The base year may be adjusted by City Council Resolution prior to the filing deadline for each competition year.

**Note 2**: Projects containing both single and multi-family zoning will be granted a proportional share of points for commitments to a. & c. above. Points will be granted based on a percentage of units within the various zoning districts within the entire overall project. For example, a project of 50 percent R-2 and 50 percent R-1 would receive 50 percent of the 6 points available under 3c. and 50 percent of the 3 points available for the single-family TDC commitment under 3a. for a total of 4.5 points (rounding will occur to the nearest half point). (Ord. 1575 N.S. §§ 2 & 3, 2002; Ord. 1517 N.S. §§ 2 & 3, 2001; Ord. 1486 N.S. §§ 3 & 4, 2000; Ord. 1438 N.S. § 1, 1999; Ord. 1404 N.S. § 2, 1998; Ord. 1346 N.S. § 2, 1997; Ord. 1228 N.S. § 3, 1995; Ord. 1179 N.S. § 7, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

#### 18.78.230 Orderly and contiguous development.

#### A. Point Range and Policies.

18		High quality
14	17	Above average
10	13	Average
5	9	Below average
0	4	Poor quality

1.—"The extent to which the proposed development accomplishes the orderly and continuous extension of existing development rather than "leapfrog" development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors.

For scoring purposes, "the central core" is the area illustrated on the Central Core Map, attached as Exhibit B and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Avenue; on the east by the rail road tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue, and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Avenue; on the north by Wright Avenue and its easterly prolongation to Church Street.

- 2. A well planned community is one which provides for the needs of its residents. Convenience, economy, and service are aspects which an orderly and contiguous development pattern can help facilitate.
  - B. Standards and Criteria.
- 1. Develops lands near the central core of the city as defined by the planning officer (PO) at least every two years Exhibit "B" to Measure "C" approved by the voters on March 2, 2004. There is a benefit for development to be within the central core area. However, it is recognized that the city does not have a well defined central core. Therefore, greater emphasis is to be given to contiguous patterns of growth. Projects within the core area will receive eight points. Projects located outside the core area will receive from zero to seven points depending on their relationship to the core area as shown below:
  - a. Within central core, eight points,
  - b. Within eight six hundred feet of the central core area, seven 7.5 points;
  - c. Within one thousand six two hundred feet of the central core area, six 7 points;
  - d. Within two *one* thousand four *eight* hundred feet of the central core area, five *6.5* points;
  - e. Within three *two* thousand two *four* hundred feet of the central core area, four 6 points;
  - f. Within four *three* thousand feet of the central core area, three 5.5 points;
  - g. Within four *three* thousand eight six hundred feet of the central core area, two 5 points;
  - h. Within five *four* thousand six *two* hundred feet of the central core area, one *4.5* points;
  - i. Within four thousand eight hundred feet of the central core area, 4 points;
  - j. Within five thousand four hundred feet of the central core area, 3.5 points;
  - k. Within six thousand feet of the central core area, 3 points;
  - l. Within six thousand six hundred feet of the central core area, 2.5 points;
  - m. Within seven thousand two hundred feet of the central core area, 2 points;
  - n. Within seven thousand eight hundred feet of the central core area, 1.5 points;
  - o. Within eight thousand four hundred feet of the central core area, 1 point;
  - p. Within nine thousand feet of the central core area, ½ point;
  - **q.** More than five thousand six hundred **nine thousand** feet from central core area, zero points.

Note: If any portion of a project is within the central core, as defined by the PO, that project shall be considered within the central core area. The distance from the central core shall be measured using the minimum distance between any portion of a parcel and the central core boundary measured in a straight line.

- 2. Fills in existing utility lines (requires no off-site extensions) and provides a contiguous pattern of growth. If water is available at the site and the water main is of sufficient capacity and supply to serve the proposed project and future development, the project will receive **one point**. If sewer is available to the site and the sewer main has sufficient capacity to serve the proposed project and future development, the project will receive **two points**. If storm drains are of sufficient capacity to serve the project and are available to the site, the project will receive **one point**. If the project is located within the established response time standard of one fire station, the project will receive **one point**. If the project is located within the established response time standard of two or more fire stations, the project will receive **one additional point**.
- 3. A proposed development located within the existing urban service area which provides for orderly growth and urban in-fill is preferable and helps prevent premature urbanization of agricultural land. Projects that provide for orderly growth patterns throughout residential neighborhoods and compatibility with adjacent and nearby land uses are preferable. Projects that are located adjacent to land that has been developed or approved for development shall be scored as follows:
  - a. > 0 -- 20% Adjacent to existing development, **one point**
  - b. >20 -- 40% Adjacent to existing development, **two points**
  - c. >40 -- 60% Adjacent to existing development, three points
  - d. >60 -- 80% Adjacent to existing development, four points
  - e. >80 -- 100% Adjacent to existing development, five points

Adjacent development is defined as contiguous property located within MH's city limits, urban service area, or urban growth boundary (UGB) and which is developed to its ultimate potential according to the city's General Plan or zoning of the property, or at least substantially developed according to the General Plan or zoning. To be considered substantially developed, at least ninety-five percent of the contiguous land area must be committed or developed to its ultimate use. Contiguous property does not include streets, railroad rights-of-way, or parcels held in fee title by a public utility or public agency containing above or below ground utilities such as gas pipelines, electric power transmission lines, or major water distribution pipelines.

County lands dedicated as a public facility or encumbered with an open space easement, or contiguous property within MH's UGB committed to an ultimate land use such as a city park, developed school site, or private open space will also be considered as adjacent development. Open space lands which are owned in private must have a public open space easement recorded over the corresponding area. For scoring purposes, undeveloped property which by December 4<sup>st</sup> September 30<sup>th</sup> of the fiscal year the competition is held has received either final map approval, or tentative map and development agreement approval for projects with previously

completed phase(s), or for which building permits have been issued, shall be considered to be developed property. The perimeter established for the complete (master-planned) project will be used to determine adjacency for every RDCS submittal. Where previously allocated phases of the same project have been developed or have received final map approval and are immediately adjacent to an otherwise undeveloped external boundary, that portion of the project's perimeter shall then be considered developed, provided the project is making satisfactory progress according to the approved development schedule (project is not in default).

The percentage of a property that is adjacent to development shall be that percentage of the combined length of the subject property lines which is determined to be contiguous to adjacent development as defined in this subsection. The subject property is defined as a single parcel or contiguous parcels of record on which the proposed project would be located and shall include that portion of the subject property designated for future development. A designated remainder parcel shall not be considered a portion of the subject property except where development on all or a portion of the remainder parcel is proposed as part of the current project application.

- 4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments provides for the continuous extension of existing development.
- a. A proposed development which is a subsequent or final phase of a previously allocated development and consists of 30 dwelling units or less shall be awarded two points. **(two points)**
- b. A continuing project will receive one point if one half of the units allocated for the fiscal year the competition is held meet the under construction criteria by December 15 have been issued building permits by September 30, AND all prior phases are under construction or completed (excluding customs). For example, a project in the competition held in FY 2002-03 with allocations within fiscal year 2002-03, must have 50% of its 2002-03 allotments and all prior years' units under construction by December 15, 2002 to be eligible for this point. (one point) OR

If a proposed development is a continuing project and does not have any allocations for the FY the competition is held, the project will receive one point if all previous phases (if any) are under construction.

**Note**: To qualify for any points under paragraph B4, the proposed development at total build-out, shall not exceed the number of units proposed in the original Development Application from which the project had been awarded an initial building allotment, unless approved by the Planning Commission prior to the competition's application submission deadline. The number of units requested for each subsequent fiscal year shall be no more than

25% above any single highest year allotment for the proposed project to a maximum of 30 units. The 25% or 30-unit limit includes any units already allocated to the project in that fiscal year as a result of a prior fiscal year competition. For Part Subsection B4a and B4b above, earlier phases of development must also be in compliance with the development schedule approved for the project except where the delay is due to extended city processing.

5. Project Master Plan design is above average in terms of addressing internal street circulation and access requirements, appropriate transition of lot size and density within the development and with surrounding developments, and aggregation and use of common open space areas. (minus one point, zero or one point)

**Note**: Project Master Plan determined to be only satisfactory with respect to the above items will be awarded zero points. Project Master Plan determined to be of a poor design will receive minus one point under this criterion. A project will be awarded one point if no significant design flaws can be found, and the design gives strong consideration to the issues of circulation, access, density transitions, and the use of common open space. If a project master plan has two or more significant design flaws, it will be considered below average and one point will be taken away. A design flaw would be something that, at the subdivision stage, staff would ask to be modified or not recommend for Planning Commission approval. Significant design flaws would basically require the redesign of the master plan. For scoring purposes, that portion of an ongoing project awarded a building allotment prior to October 1, 1999, shall not be considered within the Project Master Plan design, except where the inclusion of the earlier allocated phase(s) would result in a higher overall score. (Ord. 1575 N.S. § 4, 2002; Ord. 1517 N.S. § 4, 2001; Ord. 1486 N.S. §§ 5 & 6, 2000; Ord. 1438 N.S. §§ 2 & 3, 1999; Ord. 1404 N.S. § 5, 1998; Ord. 1346 N.S. §§ 3 & 4, 1997; Ord. 1228 N.S. § 4, 1995; Ord. 1179 N. S. § 8, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

#### 18.78.240 Public facilities.

#### A. Point Range and Policies.

9	10	High quality
<del></del>	8	Above average
5	<del>6</del>	<del>- Average</del>
3	4	Below average
0	2	Poor quality

1.—"The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities.

......(10 points)"

- 2. The public facilities which serve the Morgan Hill area can benefit by discriminate development which improves the existing systems. Many areas exist where improvements to the systems are needed. A proposed project should help alleviate the problem rather than aggravate it.
  - B. Standards and Criteria. (Maximum ten points)
- 1. A micro *or affordable project of 15 units or less project* will receive (three points) if it meets all standard requirements for design and construction of public facilities.
- 2. Installs public facilities of sufficient size to service the proposed development and future developments without the need to install supplemental facilities.
  - a. Grids water mains into the existing water system. (two points)
- b. Drainage concept is consistent with the City's storm drain system. (e.g., the city's storm drain master plan, local area storm drain system). **(one point)**
- c. Storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the Director of Public Works. (one point)
- d. Storm drainage from the development is accommodated without the need for an on-site detention pond or open space retention areas, unless the on-site detention facility is appropriately located and sized so as to serve or coordinate with future area-wide or adjacent development. (up to two points)
- Note 1. Applicants providing an oversized pond must supply information specifying how the pond sizing will address the area need and how other projects will be connected to the detention pond. The extra capacity provided must be stated in terms of the land area it can serve in acres and cubic feet. When the detention pond is not connected to other projects, the applicant must provide data satisfactory to the City's Public Works Department demonstrating the detention pond's benefit to other off-site projects. This shall be in the form of an agreement letter included the application submittal. Over sizing must equal 50 percent of the project drainage area or 10 acres, whichever is greater, to receive maximum points
- **Note 2**. Applicants who use a regional detention facility, a detention pond from another development, or a Santa Clara Valley Water District facility must supply an authorization/approval letter with their application.
- e. Applicant will contribute \$ 1000 1100 per unit to the Local Drainage Non-AB1600 fund for off-site storm drainage improvements, in addition to payment of standard fees.

  YES , or NO (Contingent commitments will not receive points) (one point)
- f. Provides public facility improvements on or adjacent to the project in excess of standard requirements, e.g., sewer, traffic control. (maximum four points)

**Note**: Under this criteria, the applicant needs to explain how and why the offered public improvements exceeds the city standards. Furthermore, the cost of the offered public improvements and dedication shall be equal to or greater than \$ 1000 1100 per unit per point.

Should the offered dedication and improvements be redundant to those offered under 5 a-c. Section B.3 a thru c of the Circulation Efficiency (CE) category, the value of the redundant improvements will be reduced by \$1000 1100 per unit per point for each point awarded under 5 a-c. Section B.3 a thru c in the CE category. For example, if redundant improvements are valued at \$3000 3300 per unit here, and 2 points were awarded for them in CE, then only 1 point would be awarded for them here. The improvements offered here and in the CE category also cannot be redundant of those improvements offered in Section B.3.a of the Schools category or B.5 of the Livable Communities Category.

Emphasis will be placed on improvements on or adjacent to the project but consideration will also be given to projects that provide improvements within one mile beyond their project boundaries. (one - four points)

g. Applicant will contribute \$1000 1100 per unit to the Public Facilities Non-AB1600 fund. YES \_\_, or NO \_\_ (Contingent commitments will not receive point) (one point)

**Note**: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

Scoring for a multi-year/phased developments includes recognition all public facility improvements committed to be installed in the initial or previous phases of development (project completed to date vis-à-vis improvements completed to date). The initial or previous phase of development must also be in compliance with the development schedule approved for the project. Ord. 1228 N.S. § 5, 1995; Ord. 1179 N.S. § 9, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1049 N.S. § 1, 1991; Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.250** Parks and paths.

#### A. Point Range and Policies.

9	10	High quality
<del>7</del>	8	Above average
5	6	Average
3	4	Below average
	2	Poor quality

1. "Provision of parks, foot or bicycle paths, equestrian trails or pathways.

(10 points)"

21. The Morgan Hill area has many natural amenities that should be made accessible to its residents. Access should be made readily available by using a variety of methods,

including foot and bicycle paths, and equestrian trails. By providing the opportunities to experience the areas natural amenities, a healthier attitude towards caring for and preserving the environment will be encouraged.

- B. Standards and Criteria.
- 1. In lieu of dedicating land, projects of 24 units or less which are <u>not</u> providing parks can pay a fee to the city equal to the value of the land prescribed for dedication. The amount of park land dedication or in lieu fee must be consistent with the requirements contained in Chapter 17.28 of this code. For the land dedication to apply, the property must be deeded to the City for public park purposes. Not applicable to passive open space or landscape buffer areas deeded to a homeowners association. (**four points** for projects of 24 units or less which are <u>not</u> providing parks)
- 2. Provides privately owned and maintained on-site recreational amenities which are of greater value and utility from the following list. Projects of 15-24 units may select from any category of amenities to count toward the score. Projects of 25-49 units will receive credit for a maximum of one amenity from the one point category list. To achieve maximum points, projects of 25-49 units must select additional amenities from either the two, three, or four point amenity categories. Projects of 50 units or more will only receive credit for amenities provided from the two point or higher point category lists. (up to four points)

#### **Site Recreation Amenities**

One point amenities:	Three point amenities:	
Shuffleboard	Softball Field	
Horseshoes	Sports Court	
Bowling green	Restroom area	
Open space turf areas	½ scale Soccer Field	
Cabana or Shade trellis area	Tot lots (age appropriate play	
Tree Grove	equipment/minimum 3 activities)	
Passive recreation area and/or gardens	Basketball Court ( 2 hoops)	
Passive water feature (e.g. fountain)	Child wading pool	
Picnic/barbeque area		
Two point amenities:	Four point amenities:	
Volleyball court	Child Care Facility	
Outdoor racquetball/handball tilt-up wall	Swimming Pool	
Water feature (pond, creek area)	Tennis Court	
Sauna	Recreation Hall	
Tree Grove as approved by the City's	Exercise Room	
Architectural Review Board	Indoor racquet sports court	
Community garden plots with water service	Par 3 course and/or pitch and putt golf course	
½ court basketball (one hoop)		
Passive recreation area and/or gardens		
Bridle paths		
Bocce Ball		
Putting Green		

Points will also be awarded for any proposed amenity found by the Planning Commission to provide recreation or meet the needs of the project residents to a level similar to provided by the above. Point values in the above chart are based on a 50 unit project. For projects of 51 to 100 units, divide the above values by two. For projects of 101 - 150, divide the above point values by three, etc.

- 3. Provides Class I bicycle pathways or equestrian trails along the project frontage in accordance with the overall community-wide and/or county-wide bicycle master plans. In areas where a Class I bike path is not required, the project provides necessary street improvements and striping for Class II bike lanes. The project must provide at least one quarter mile of Class II bike lane improvements for each 10 dwelling units within the project. (one point)
- 4. Proposed project will contribute toward the creation of a neighborhood park by providing a coordinated development plan which locates on-site parks and other permanent open

space areas so as to allow expansion of these areas into adjoining future developments. A conceptual plan showing how the future park expansion may be implemented must be included in the project application. The conceptual plan shall identify the park area, list the number of amenities and show the layout of the amenities in the proposed park. Where necessary or appropriate, the plan should also allow these areas to be jointly utilized for storm water detention serving the proposed project and future area-wide development. **(two points)** 

- 5. In addition to payment of standard park fees, applicant will pay the lesser of double the required in lieu park fees or \$1000 1100 per point up to \$3000 3300 per unit. (up to three points) or
- 6. Applicant (projects of 24 units or less who do not provide a park) will pay the lesser of triple the required in lieu park fees or \$1000 1100 per point up to \$6,000 6600 per unit. (up to six points)
- 7. Public or private parks provided by the project exceed the dedicated land requirements stated in Chapter 17.28 of the Morgan Hill Municipal Code. (**one point** if exceed the requirement by 20%, **two points** if exceed by 30%, or **three points** if exceed by 40%, or **four points** if exceeds by 50%).

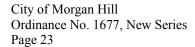
**Note**: The number of recreational amenities required pursuant to Section 18.18.060 shall be based on the total number of dwelling units within the project, including secondary dwelling units as defined in Section 18.04.164 of this title.

Scoring for a multi-year/phased development includes recognition all recreational amenities provided in the initial or previous phases of development (amenities provided to date vis-à-vis project completed to date). The initial phase of development must also be in compliance with the development schedule approved for the project. (Ord. 1575 N.S. § 8, 2002; Ord. 1517 N.S. §§ 6, 7 & 8, 2001; Ord. 1486 N.S. §§ 7 & 8, 2000; Ord. 1438 N.S. §§ 5 & 6, 1999; Ord 1404 N.S. § 6, 1998; Ord. 1346 N.S. § 6, 1997; Ord. 1228 N.S. § 6, 1995; Ord. 1179 N.S. § 10, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

#### **18.78.260** Housing needs.

#### A. Point Range and Policies.

	13	15	High quality
	13	13	
	10	12	Above average
-	7	9	Average
	,		Ŭ
	4	-6	Below average
	0	3	Poor quality
	V		1 001 quanty



1.—"Provision of units to meet the city's need for low and moderate income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity.

- 2. The city has an obligation to provide adequate housing for all segments of the population in a variety of lot sizes and dwelling types. It must do this in a fashion which creates diversified neighborhood environments and income groups, avoiding concentrations of any single income group in one particular residential neighborhood. A neighborhood mix of ethnic and economic diversity, as required by the housing element of the general plan will therefore be encouraged.
  - B. Standards and Criteria.
- 1. Provides affordable housing units for households ranging from very low to moderate income. Most units sold or rented at below market rates will receive increased density.
- 2. Over and above the BMR units committed in this section, the project provides an additional 10% detached units in an R-2 project or an additional 10% attached units in an R-1 project. (Two points) OR

The project provides an additional 10 percent of its units as moderate rate homes. These units would not participate in the City's BMR program but would be in addition to the project's BMR commitment. The final sales price (at close of escrow) for the units will be based on HUD income limits for a family of 4 at the closing date. **(two points)** 

Projects that have both R-2 and R-1 zoning designations can receive **one point** for providing an additional 10% detached units in the R-2 project area and/or **one point** for providing an additional 10% attached units in an R-1 portion of the project.

3. The project will receive an average score seven six points if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project.

Projects are also eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than .5 shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing mitigation fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches .5 or higher. Any fraction of .5 or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

## 4. Affordable Units For Sale:

## 10% or Greater BMR Commitment

**5% BMR Commitment** 

P o I	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	
n t s	LOW	MEDIAN	LOW	MEDIAN	Allowable Density Bonus
15*					
13	5	8			15%
<del>13-</del> 12	8	3			12%
<del>13-</del> 12	10				10%
<del>_9</del>	5	5			<del>7%</del>
<del>-5</del>	θ	10	5	θ	4%
3			θ	5	1%
<del>.7</del>	Pay mitigation fee				θ
0	No mitigation				

<sup>\*</sup> Applicable to 100 percent affordable project.

### **Affordable Units For Rent:**

Applicable to 100 percent rental or non profit agency sponsored project

### 10% BMR Commitment

### **5% BMR Commitment**

P o I	Percentage of BMR units				
n t s	VERY LOW	LOW	VERY LOW	LOW	Allowable Density Bonus
15	10	0			10%
11	5	5			7%
7	0	10	5	0	4%
3			θ	5	1%
7	Pay mitigation fee				θ
-0	No mitigation				

- 5. A project may also be awarded 13 points if at least 10 percent of the dwellings are affordable at below market rates and the BMR units are constructed in a joint venture with a non profit builder. The following criteria shall apply to the joint venture development:
- a. A letter of intent signed by both parties must be included with the RDCS application.
- b. The homes are to be built by the nonprofit agency through a self help building program or other applicable program approved by the City.
- c. The project must provide an area for a minimum of 8 BMR units as part of the joint venture agreement. If 10 percent of the project is less than 8 dwelling units, allocations above 10 percent of the project may be drawn from the affordable allotment set-aside if available, to achieve the 8 unit minimum.
- d. The price range and target income of the buyers shall *be* determined and approved by the City and non profit agency prior to the RDCS application.
- e. The site and architectural plans for the affordable units shall be shown on the plans and shall be considered part of the market rate application.

**Note**: If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the

other options to achieve 13 points under criteria B4 in this category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

6. A Micro, Small, or any project having all lots in excess of 20,000 square feet, will receive seven six points if it chooses to pay double the standard housing mitigation fee computed at ten percent of the total project (including replacement units). (Ord. 1575 N.S. §§§ 9, 10 & 11, 2002; Ord. 1517 N.S. §§ 9 & 10, 2001; Ord. N.S. 1486 § 9, 2000; Ord. 1438 N.S. § 7, 1999; Ord. 1404 N.S. § 7, 1998; Ord. 1346 N.S. §§ 7 & 8, 1997; Ord. 1323 N.S. § 38, 1997; Ord. 1228 N.S. § 7, 1995; Ord. 1179 N.S. § 11, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## **18.78.270** Housing types.

## A. Point Range and Policies.

13		15	High quality
13		10	riigii quaiitj
10	_	12	Above average
10		12	1100 ve average
7		0	<del>- Average</del>
,		,	Average
1		6	Below average
<b>-</b>	_	O	Delow average
0		2	Poor quality
	_	7	1 001 quanty

- 1.—"The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan.
- 12. In order to develop residential neighborhoods which have a mix of housing types, new residential construction should consider the existing composition of the neighborhood and plan its housing design accordingly.
  - B. Standards and Criteria
  - 1. Provides for a diversity of housing types:
- a. Utilizes a mix of the various housing categories to provide housing diversity as follows by housing type\* (a maximum of **seven points**, **two points** per housing type, excepting the 15% single story housing type which is worth **three points**).

**Note**. Rental projects will receive **seven points**. Owner occupied single-family attached and multi-family R2 and R3 zoned projects will receive **five points** for one housing type, and **seven points** for two or more housing types.

<sup>\*</sup> Housing Types are defined as follows:

- Single-family detached
- Single-family attached (includes one and two unit condominium buildings).
- Multi-family rental or stacked condominiums or condominium units in buildings containing three or more units.
- Custom lots
- Mobile homes
- Secondary dwelling units
- Single story dwelling units (must represent at least 15% of the total dwelling units)

For the above determination, the number of units for a particular housing type when divided by the total number of units in the project, must represent at least ten percent of the total number of housing units in the development (fifteen percent for single story units). The ten percent requirement would be in addition to any housing type used for below market rate (BMR) units. Single story BMR units may be counted toward the fifteen percent overall requirement for single story units.

**Note**: The percentage requirements stated above are absolute figures. Rounding to the nearest whole number is not permitted. A minimum of 10 percent (fifteen for single story units) is required, i.e. rounding up to get 10 percent is not allowed.

b. Over and above the BMR units committed in this section, the project provides an additional 10% detached units in an R-2 project, an additional 10% attached units in an R-1 project or an additional 10% ownership (e.g., townhouse units) in an R-3 project. (two points maximum)

b. The project provides an additional 10 percent of its units as moderate rate homes. These units would not participate in the City's BMR program but would be in addition to the project's BMR commitment. The final sales price (at close of escrow) for the units will be based on HUD income limits for a family of 4 at the closing date. (two points)

Projects that have both R-2 and R-1 zoning designations can receive one point for providing an additional 10% detached units in the R-2 project area and/or one point for providing an additional 10% attached units in an R-1 portion of the project.

**Note**: The 10 percent determination will be based on the overall project. For ongoing projects, this eriteria criterion will be applied to the remaining phases only. The percentage requirement stated above shall be an absolute figure, rounding to the nearest whole number *is* 

not permitted. A minimum of 10 percent is required, i.e. rounding up to get 10 percent is not allowed. This criterion only applies to for sale projects.

- 2. Provides for an economic diversity within the project.
- a. The proposed project would augment the existing housing stock by providing housing which would be affordable under the income categories described below. A maximum of two points (or four points if for rent) may be awarded to projects which reserve a portion of the total units (see table below) as affordable to very low income households within 100 percent rental projects or low income (ownership units) in other projects.

**Note**. A Micro, Small, or any project where all lots are in excess of 20,000 square feet, will receive **two points** if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project *(including replacement units)*, or **four points** if it chooses to pay double the housing mitigation fee.

## **For Sale Projects**

10% or greater BMR Commitment 5% BMR Commitment

P	Provides for	Provides for	Provides for	Provides for 5%
0	10%+	10%+	5% affordable	affordable units
I I	affordable	affordable	units	
n	units	units		
t				MEDIAN
S	LOW	MEDIAN	LOW	
4*				
2	5	8		
2	8	3		
1.5				
2	10			
1.5				
1	5	5		

<sup>\*</sup> Applicable to 100 percent affordable projects.

**Note:** If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing

through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve the 2 points in this (for sale) category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

## **For Rent Projects**

10% BMR Commitment 5% BMR Commitment

P o I n	Provides for 10% affordable units	Provides for 10% affordable units	Provides for 5% affordable units	Provides for 5% affordable units
S	VERY LOW/LOW	LOW	VERY LOW/LOW	LOW
4	10	0		
3	5	5		
2	0	10	5	0
1			0	5

3. For single family/ownership projects, the proposed project provides for a variation of housing sizes within the project. The proposed project provides at least a fifty percent variation in house size from the smallest to largest floor plan and each house size represents at least ten percent of the total units (**four points**). For purposes of making the above determination, there must be at least three (3) different floor plans and a one hundred twenty square foot difference between the size of each floor plan where the floor plans do not exceed 1,500 square feet (less than one hundred twenty square feet difference will be aggregated as one floor plan). Where the floor plans exceed 1,500 square feet, there must be a two hundred square foot difference between the size of each floor plan (less than two hundred square feet difference will be aggregated as one floor plan).

For multi-family projects, and 100% affordable non profit agency sponsored ownership projects, the variation will be based on number of bedrooms. A project which provides one bedroom units only, will receive one point. A project which provides a mix of one and two bedroom units or two bedroom units only, will receive two points. A project which provides dwelling units with a mix of one, two and three bedroom units or dwelling units with three or more bedrooms only within the development, will receive four points. Each bedroom category

must represent at least ten percent of the total units. Affordable ownership projects must provide a minimum of three floor plans to be eligible for points under this criterion.

**Note:** BMR units may not be used when determining housing size variations

## 18.78.280 Quality of construction standards.

## A. Point Range and Policies.

13	15	High quality
10	10	
10	12	Above average
<del></del>	9	<del>- Average</del>
4	6	Below average
0	3	Poor quality

1.—"Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size, and height.

......(15 points)"

- 2. The proposed project should create buildings that are responsive to the needs of its users and the environment, while also accomplishing it in an appealing and attractive manner. The overall project design should be compatible and harmonious with existing adjacent residential neighborhoods and land uses, while still maintaining its own special character.
  - B. Standards and Criteria.
- 1. Provides harmonious use of exterior building materials and varying front elevations with low repeat factors. A reverse floor plan does not count as a separate elevation. An elevation to be considered different must include significant modifications to the exterior appearance of the structure.
  - a. Floor plan & elevation repeats 0 -3.5 times: **one point**

For single family detached buildings, repeat factor is the total number of building lots divided by: the number of floor plans multiplied by the number of alternate elevations for each plan (i.e.: repeat factor = number of building lots/(floor plans)\*elevations).

For single-family attached or multi-family buildings, repeat factor is the number of structures divided by: the number of different footprints times the number of alternate elevations for each footprint (must have a minimum of two elevations within the project).

- 2. Uses design and construction that conserve resources:
- a. Provides for energy conservation through the use of energy-efficient building techniques, materials, and appliances, such that the buildings consume less energy than allowed by California's Title 24 Building Energy Efficiency Standards, as documented in the energy compliance reports submitted at the time of application for building permits. (Maximum four points will be assigned under this criteria)
  - i. Uses EPA "Energy Star" labeled windows with low-e coatings and vinyl or metal frames, and includes installation of a high efficiency gas furnace of 90 percent efficiency rating or greater in all dwelling units. Applicant must specify how the 15 percent reduction in energy usage will be achieved. (two points)
  - ii. Provides two separately zoned high-efficiency heating systems in units over 3000 square feet, and units less than 3000 square feet whose floor plans allow effective dual-zoning. For maximum points, at least 60 percent of the dwelling units in the project must be dual-zoned and all units must include the installation of high efficiency gas furnaces with 90 percent efficiency rating or greater. (up to two points)
  - iii. Installation of air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher. Must be installed in more than 60 percent of the dwelling units in the project. (one point)
  - iv. Installation of a high efficiency gas furnace with an efficiency rating of 90 percent or greater, in all units. Applicable only to projects that do not provide for a reduction in energy usage below Title 24 standards as specified in B3a(i) or the separately zoned heating systems as specified in B3a(ii) above. (one point)
  - v. Homes include solar panels for power generation and/or alternate energy sources, such as solar hot water, solar space heating or other energy saving methods not included elsewhere in the category. (up to two points)
- b. Provides for household water conservation through innovative building techniques that result in reduced water waste, and which exceed current city and state standards. For example, recirculating hot water system with demand pumping, or other water saving plumbing systems or features *such as a separate grey water (recycled water) irrigation system.*. Applicant must be specific in describing how the proposed system exceeds code requirements. Note: Not applicable to water conserving landscape irrigation systems such as sprinkler stations, timers or water saving sprinklers, etc. See scoring under Landscaping Category (up to one point)
- 3. Uses materials and construction techniques that exceed current building requirements of the Uniform Building Code adopted by the city as follows:
  - a. Installation of cast-iron drainage pipe and piping insulation between floors for

sound reduction of plumbing, and installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT5R or equivalent for telephone lines. (one point)

b. Class A roof covering such as light weight concrete tile, architectural grade composition shingle or better and uses other materials and construction techniques that exceed current requirements, including, but not limited to glued and screwed subfloors, insulation of interior walls for sound, TJI floor joists, and pre-plumb gas lines to dryer along with 220 volt outlet. Not applicable to foundation designs. Applicants must specify how the construction techniques would exceed code requirements (one point)

Applicant must be specific in describing how the proposed materials and construction exceed code.

- 4. Provides architectural variation and differentiation as follows:
- a. Uses porches, balconies, or multi-unit courtyards for any area viewed from the public right of way *or multi unit courtyards interior to the project* on at least 25% of units to promote a neighborhood feel (two points)
- b. Uses at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. (one point)
- c. Uses architecture and profiles and massing that conforms and works with the existing surrounding neighborhoods. Applicable only where a project adjoins an existing neighborhood on at least one side or twenty-five percent of the project's frontage. (one point)
- d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two story rear and or side yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than 15% (project size permitting) of the project. (up to two points)
- 5. Proposed project phase(s) are judged by the Planning Commission to be superior with respect to overall project excellence. Applicant has an agreement letter on file with a qualified residential home builder prior to application filing. (one point) Note: A change to a different builder subsequent to the award of a building allotment shall result in a loss of this point.

A qualified homebuilder means a builder with experience completing projects with the same or similar housing type and of similar size to project application.

The determination of project excellence will include input from the Building Division regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than 2 plan

checks and/or projects which submit for building permits prior to ARB approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City. (Ord. 1575 N.S. §§§§ 14, 15, 16, 17 & 18, 2002; Ord. 1517 N.S. §§ 13 & 14Ord. 1486 N.S. § 11, 2000; Ord. 1438 N.S. § 10, 1999; Ord. 1404 N.S. § 9, 1998; Ord. 1346 N.S. § 12, 1997; Ord. 1228 N.S. § 9, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.290 Lot layout and orientation.

A.	Point Ran	ge and Pol	<del>licies.</del>
		15	High quality
	10	12	Above average
	7	9	<del> Average</del>
	4	6	Below average
	0	3	Poor quality

1.—"Site design quality as indicated by lot layout, orientation of the units on the lots, and similar site design consideration.

.....(15 points)"

21. The overall project's site design quality is largely dependent upon the layout of the individual lots. Variations in lot sizes and configurations must take place to accommodate changes in natural terrain and street design, although this is not to be construed as meaning that areas of consistent terrain need not have lot variations. The variations in lot size, shape, and layout would encourage a corresponding variation in house designs and orientations. Site design

will incorporate the utilization of the sun and wind to the greatest extent possible for heating and

cooling purposes.

- B. Standards and Criteria.
- 1. Provides good site design considerations in all lot layouts.
- a. In context of the overall project, avoids excessively deep or narrow lots. The project also must provide side yards at least 20 percent in excess of the minimum required to avoid crowding and to enhance spatial relationships. (one point)
- b. Provides building separations in apartment or condominium developments that are at least 20 percent in excess of minimum code requirements. (one point)
- c. Avoids excessive use of sharp angled lots which waste land and constitute poor building sites. (one point)
- d. Avoids creating lots which require driveways greater than 150 feet in length for access. **(one point)**

- e. A sufficient transition in lot sizes, or building sizes in R-3 developments, is proposed in the site plan design to allow compatibility between existing and proposed neighborhoods. (one point)
- f. Over-all excellence of lot layout. Layouts deemed to be average will receive **zero points**, above average layouts will receive **one point**, and superior layouts will receive **two points**.

For scoring purposes points will be assigned as follows:

Average Project: A project requiring 2 or more major design changes, or which has 4 or more minor problems. (zero points)

Above Average Project: A project requiring 1 major design change, or which has 3 minor problems. **(one point)** 

Superior Project: A project requiring no major changes and which has 2 or less minor problems. (two points)

This criterion shall not apply to that portion of the project awarded a building allotment prior to October 1, 1999, except where the inclusion of the earlier allocated phase(s) would result in a higher score.

- 2. Provides street design which complements lot layout and building orientation:
- a. Locates streets and arranges units to provide park/open space area that is aggregated into large meaningful area(s) that are conveniently located within the development. (one point)
- b. Locates streets, design lots, and arranges units to enhance neighborhood security by arranging a minimum of 75 percent of the units so that entrances are visible from the public right of way or private circulation areas. **(one point)** 
  - 3. Provides a variety of setbacks which complements the overall site design.
- a. A minimum five-foot front setback variation is provided between adjoining units for single-family dwellings, and four-foot front setback variation is provided between adjoining buildings for multi-family developments. (one point)
- b. A minimum five-foot rear setback variation for single-family dwellings, and four-foot rear setback variation for multi-family dwellings is provided between adjoining units. **(one point)**
- c. The proposed project provides at least a four foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least ten percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four foot difference in the width of each standard lot. (one point)

- d. Uses garage placement to provide lot variation. At least 25% of Units have side-loading, detached, rear garages, or two car garages with tandem parking space to accommodate a third vehicle inside the garage. (one point, when 25% of the units have garage orientation as stated above; two points when 50% of the units have garage orientation as stated above) Note: No more than 50 percent of the garages within a project may be of this type (with tandem parking). Multi-family developments may satisfy this criteria by locating garages, carports, and parking spaces at the side or rear of buildings at locations not visible from the public right-of-way. (up to two points)
- 4. Uses lot layout and design techniques that reduce noise. Such techniques where appropriate include increased setbacks, significant landscape buffer areas, sound insulation board in the building construction, placement of air conditioning units away from property lines and side yard areas to minimize noise impacts to adjoining dwellings, etc. (up to two points)

(Ord. 1575 N.S. §§ 19 & 20, 2002; Ord. 1517 N.S. §§ 15 & 16, 2001; Ord. 1486 N.S. § 12, 2000; Ord. 1438 N.S. § 11, 1999; Ord 1404 N.S. §§ 10 & 11, 1998; Ord. 1346 N.S. § 13, 1997; Ord. 1228 N.S. § 10, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.300 Circulation efficiency

## A. Point Range and Policies.

13	15	High quality
10	12	Above average
7	0	- Average
/ <del></del>	6	Č
4	0	Below average
<del></del>	3	<del>Poor quality</del>

1. "Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy.

- 21. An efficient circulation system is one which accommodates various regular transportation modes (walking, biking, private automobile and public transit) in a safe and unified manner. Future residential areas should incorporate design elements whenever possible to make these forms of transportation more convenient and safe for the users.
  - B. Standards and Criteria.

**Note:** Project scoring in this section shall be based on the overall project master plan and shall include improvements completed in previous phases of the same development.

1. Provides low-maintenance on-site walkways and on-site bike paths throughout the development to maximize their use and promote safety. This criteria does not apply to city

standard sidewalks, or where the provided path is adjacent to city standard sidewalks. (one point)

- 2. Encourages the use of public transportation in residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas **and** these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. The subsequent phase must be located within a quarter mile of the bus stop. (one point)
- 3 1. Streets, access ways and parking are designed for safe and efficient circulation. (Maximum nine points will be assigned under this criteria)
- a. Local streets or access-ways interior to the project are designed to discourage fast traffic using curvilinear roads or traffic control devices. **(one point)**
- b. Provides for the future extension of streets or drive aisles for proper access or circulation to adjacent properties by providing one or more stubs for the future extension of streets. The future street extension(s) must be consistent with the General Plan or other adopted circulation plans. (up to two points)
- c. Interior streets and/or drive aisles are designed to meet all city safety and parking standards and allow for a looping pattern of circulation. **(one point)**
- d. Eliminates existing stub or substandard streets. Frontage improvements will not apply to this criteria unless the improvements occur along an arterial or the project completes full width street improvements along the project frontage. (up to two points)
- e. Avoids short blocks between existing and/or proposed streets. A short block is considered to be less than two hundred sixty *fifty two* feet from centerline to centerline of streets. Within a project, an entry aisle less than two hundred sixty *fifty two* feet from the entry is acceptable. This criteria is not applicable where a driveway and/or drive aisles and curb cuts are used to provide access to the entire project site. (one point)
- f. Provides a minimum 20-foot clear view back-out distance between enclosed garage space and drive aisle. **(one point)**
- g. When possible, access to the project is provided from at least two separate streets. If access to separate streets is not possible, there must be a minimum of two hundred feet between access points to the project on the same street. **(one point)**
- h. Provides appropriate landscape islands and entry monuments/gateway features. **(one point)**
- i. Project provides circulation to facilitate emergency response and patrol as determined by the fire chief and police chief. Off-set intersections are avoided. The project shall

include specific information to provide for turnarounds and secondary access proposal for phased projects. (one point)

- 4.2. Promotes the privacy of residential neighborhoods.
- a. Internal project circulation is designed for use primarily by local residents. (one point)
- b. Street layouts are designed to avoid the creation of undesirable situations such as double frontages, utility easements in rear or side yards of private property, or developable land locked property. **(one point)**
- 5 3. Provides for dedication and improvement of extensions to existing streets outside of the project boundaries. The cost of the offered dedication and public improvements shall be equal to or greater than \$1000 1100 per unit per point. Should the offered dedication and improvements be redundant to those made under 1f. of the Public Facilities (PF) section, points will be awarded here first and then any excess applied to the PF section. For example, if \$1500 per unit of improvements were recorded in this section and in PF, 1 point would be awarded here and \$500 400 per unit would be available to add to any non-redundant improvements made under the PF category, under Section B.3.a of the Schools category or under B.5 of the Livable Communities category.

Projects which offer to complete adjacent or nearby off-site public facility improvements which were committed to be installed by another project under a previously approved application will not receive points for the same commitment. (Maximum of two points)

- a. Provides for dedication of extensions to existing streets outside of the project boundaries. (one point)
- b. Provides improvements for dedicated extensions of existing streets outside of the project boundaries. (one point)
- c. Provides dedication and improvement of street extensions for existing streets outside of the project boundaries. (two points)
- 4. In R-3 and higher density mixed use projects, the proposed development minimizes conflicting back out movements by using single loading streets or drive aisles to access individual parking spaces. (one point)
- 5. In R-3 and higher density mixed use projects, interior parks and recreation amenities are located away from parking lots and circulation aisles. (one point)

**Note**: For B3 *I* above, emphasis will be placed on improvements for dedicated extensions of existing streets within one mile beyond the project boundaries.

Proposed developments must be assigned a minimum passing score of seven points under this category in order to qualify for building allotments.

(Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13 & 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.310 Safety and Security

## A. Point Range and Policies.

9	10	High quality
<del></del>	8	Above average
5	6	<del>- Average</del>
3	4	Below average
<del></del>	2	Poor quality

- 1. "Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures.
- 21. Residential structures should create the feeling of comfort and peace of mind by using design and materials that increase safety and security. The lighting, glazing, and positioning of non-private or semi-private areas, and access areas must facilitate their natural surveillance by residents and formal authorities.
  - B. Standards and Criteria.
- 1. Enhances safety and security by providing at least two items from category I and two items from category II that are not already required according to the Uniform Fire: (one point total) as follows:
  - a. Category I: Fire-Minimum two items. (½ point)
- i. Provides fire escape ladders for upper floor bedrooms *and*
- ii. Provide one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, plus one point and one additional extinguisher for each additional 1,500 square feet of floor space or fraction thereof. (1/2 point)
- b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. (1/2 point)
- ii. c. Any other fire protection device or construction technique approved by the fire chief not already required according to the Uniform Fire Code. (½ point).
  - b d. Category II: Police-Minimum two items. (½ point)
  - i.—Provide outdoor lighting to meet all police department specifications. ( ½ point)
- ii e. Install illuminated or self luminous address numbers for each unit and painted reflective curb numbers where possible. (one point)

iii f. Any other intrusion protection device or construction technique approved by the police chief. (1/2 point)

<u>Note</u>: Application must stipulate that the reflective painted curb addresses will be maintained by a homeowners association. A Small or micro project will receive one point without the requirement for painted curb addresses.

- 2. Use of noncombustible siding materials on at least fifty percent of the units within the project. The noncombustible siding must be used on at least fifty percent on an individual unit. (one point, two points when above siding is used on at least seventy five percent of the siding of the unit) in the following manner:
- a. One point when noncombustible siding is used on at least 50 percent of the total units and on at least 50 percent of the siding of an individual unit, or;
- b. Two points when noncombustible siding is used on at least 50 percent of the total units and comprises at least 75 percent of the siding of an individual unit, or;
- c. Two points when noncombustible siding is used on at least 75 percent of the total units and comprises at least 50 percent of the siding of an individual unit.
- 3. Installation of an intrusion, and fire alarm and heat detector system to be monitored by a central station, or to include auto dialer which meets city ordinance. For multifamily projects, points will be awarded for a fire alarm system without central monitoring, and NO intrusion system. (two points; three points when the developer includes a one year monitoring contract with the home purchase and commits to deliver to the homeowner a city specific responsible listing card that the City Police Department can keep on file)
- 4. Provides residential fire sprinkler system according to NFPA Chapter 13D specifications. (three points)
- 5. Provide automatic earthquake shut-off valves for gas service. (one point)

  Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management. (one point)
- 6. Developer to provide a hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices are to be located per manufacturer's requirement with at least one detector per floor of the residence. (one point)
- 7. The developer shall include provisions in the Convents, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development. For rental projects, neighborhood watch programs shall be administered through a central property management company. (one point, criterion does not apply to small or micro projects)

NOTE: Proposed developments must be assigned a minimum passing score of three *five* points under this category in order to qualify for building allotments.

## 18.78.320 Landscaping, screening and color.

## A. Point Range and Policies.

9	10	High quality
7	Q	Above average
5	6	
<del></del>	0	<del>- Average</del>
3	4	Below average
<del></del>	2	Poor quality

1. "Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings.

......(10 points)"

2. 1. All trees, shrubs, ground cover, walls and fences, mounding, landscape furniture, paths, lighting, etc., should be compatible with the topography and other characteristics of the site, the character of adjacent quality landscaping, and the architectural features of adjacent structures. Efficiency in exterior design and landscaping is an important part of the character of a home. A gain can be made in terms of heating and cooling, noise abatement and pest control. The functions of plants should be the basis for their use in environmental design.

## B. Standards and Criteria. (Maximum ten points)

(Note. Custom lots and custom lot developments may receive points in pertinent sections below where landscaping will be provided by the lot owner. This requires development agreement commitments being recorded against each such lot, including a statement that landscaping requirements must be in place or bonded prior to receiving City approval for occupancy.)

- 1. Uses landscaping techniques that enhance the quality of the site.
- a. Applicant agrees to provide twenty-four inch box-size trees from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees. (one point)
- b. Provides sufficient planting around all necessary and appropriate group parking to achieve shading and visual screening as viewed from the public street. **(one point)**
- c. Varied front yard landscaping plans are installed by the developer. For multifamily projects, this criterion shall apply to varied landscaping installed along the project

# frontage and for the landscaping installed in front of the buildings in the interior portions of the project. (one point)

- d. Deciduous trees will be planted along the south facing side of homes or buildings to conserve energy by giving shade in the summer and maximum solar gain in the winter. **(one point)**
- e. All street trees are twenty-four inch box trees from the city approved list. (one tree per lot, two trees per corner lot = **one point**; two trees per lot, three trees per corner lot = **two points**)
  - 2. Landscape planting and irrigation systems are designed to conserve water usage.
- a. Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks. (one half point)
- b. Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn, and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs, and groundcover cannot be combined under 1 valve, a separate valve for trees shall be provided, resulting in a minimum of 4 separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation. (one half point)
- c. The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item. (one half point)
- d. For at least 50 75% of all plant material, uses water conserving plants contained on the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide. (one half point)
- e. Uses a separate water source (e.g., well, import or recycled water) to irrigate common area landscape areas and front yard areas that are maintained by a homeowners association. (up to two points)
- f. Project connects to an existing water supply separate from the City's water system (e.g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only. (one point)
- 3. Landscaping is installed on all areas visible from public and private rights-of-way. **(one point)**

(Ord. 1517 N.S. § 19, 2001; Ord. 1438 N.S. § 13, 1999; Ord. 1346 N.S. § 16, 1997; Ord. 1304 N.S. § 3, 1996; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.330 Natural and environmental features.

## A. Point Range and Policies.

0	10	High quality
<del></del>	10	High quality
	- 8	Above average
,	O	1100 ve a verage
5	<del>6</del>	<del>- Average</del>
	_	· ·
	<del>4</del>	Below average
0	2	Do on avality
<del></del>		<del>Poor quality</del>

- 1. "Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain, and other natural and environmental features.

  (15 10 points)"
- 2. The proposed development should always adapt itself to the environment rather than vice-versa. The residences and supportive infrastructure shall be designed with nature in mind, by following the natural form of the land, preserving unique natural features and environmentally sensitive areas, arranging building sites around existing trees, and "blending in" the development to the surroundings.
- 3. A high quality project is one that uses what is available but also improves the total environment for the people who live within and nearby.
  - B. Standards and Criteria.
  - 1. The proposed development utilizes environmental preservation techniques.
- a. Foundation types are designed to minimize grading of the site and road alignment follows and maintains existing ground elevation to the greatest extent possible. Minimal grading is considered a fill or excavation of less than three two feet in depth (three feet is acceptable for detention ponds). (three one point)
- b. Restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation where applicable. **(one point)**
- c. Road alignment follows and maintains the existing ground elevation to the greatest extent possible. For example, a change in ground elevation where it is not required. (one point)
- d. Each building site is located considering the folds of the terrain, preserves significant trees as defined in Section 12.32.020G of the Morgan Hill Municipal Code. (the number of trees preserved must be proportional to project size and the number of existing trees) and/or rock outcroppings where applicable, but also allows enough flexibility in the final location of the final house design to fit the house to individual trees and detailed grade characteristics. Scoring will be as follows:

- i. Project does NOT preserve *significant* trees or locate sites as outlined. (minus one point)
  - ii. Project has no such trees or terrain to preserve. (zero points)
  - iii. Project has trees and/or terrain and DOES preserve them. (up to two points)
- e. Considers, preserves or improves natural conditions on or adjacent to the site such as wildlife habitats, streams, *those watercourses the Santa Clara Valley Water District recognizes as* creeks (*such as* the Llagas, West Little Llagas, Fisher, and Coyote creeks) when appropriate and preserves riparian habitats in a natural state. Scoring will be as follows:
  - i. Project has such a site and does NOT preserve/improve it. (minus one point)
  - ii. Project has no such site. (zero points)
- iii. Project has such a site and preserves and improves the natural conditions. (**up to two points**)

(Note: Only improvements made to an <u>on-site</u> area qualify for maximum points.)

- 2. The proposed development creates an environment that enhances the quality of life for the people who live in the development and the local neighborhood.
- a. Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the off set of windows between units, alternating outdoor patio areas and entrance and consideration of fence height in relation to grade changes. (two one point)
- b. Uses various site development practices to protect existing open space, hillsides and agricultural land with maximum points awarded for the protection of areas external to the project. (up to two points)
- c. Arranges buildings, access-ways and locates parking areas and open space to minimize the use of sound walls next to the freeway, *the railroad tracks*, arterial or collector streets. (two points)
- 3. Project reduces construction waste sent to landfill sites by agreeing to implement at least two of the following recycling methods during construction: **(one point)** 
  - i. Dry wall is source separated and recycled;
  - ii. wood waste is source separated for recycling or composting;
  - iii. cardboard containers and boxes are source separated and recycled.

(Ord. 1517 N.S. § 20, 2001; Ord. 1438 N.S. § 14, 1999; Ord. 1404 N.S. § 12, 1998; Ord. 1346 N.S. §§ 17 & 18, 1997; Ord. 1228 N.S. § 13, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.335 Livable Communities.

	A.	"The	extend	to	which	the	proposed	development	exhibits	overall	project
exce	llence and	d/or inc	corporate	es o	r otherw	ise e	mbodies th	e concept of L	ivable Co	mmuniti	es, such
as pi	oximity t	to trans	sit, pede	stria	n orien	tatio	n, efficienc	y of street sys	tem, mixe	ed use, in	ıfill and
maxi	mization	of use	of existi	ng i	nfrastru	cture	<b>)</b> .				

......(10 points)"

## B. Standards and Criteria

1. Proposed project phase(s) are subjectively judged by the Planning Commission to be superior with respect to overall project excellence. (two points when awarded by a super majority of the voting members, and or one point when awarded by a majority of the voting members of the Planning Commission)

Note: The determination of project excellence will include input from the Building *and Planning* Divisions and *the Public Works Department* regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects which submit for building permits prior to ARB approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City.

- 2. Provides low-maintenance on-site walkways and on-site bike paths throughout the development to maximize their use and promote safety. This criteria does not apply to city standard sidewalks, or where the provided path is adjacent to city standard sidewalks. (one point)
- 3. Encourages the use of public transportation in residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas **and** these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. **(one point)**
- 4. Project is located within a quarter mile walking distance of the bus stop or other transit facility (the W. Main/Hale Park & Ride Facility, Caltrain Station or Route 68 regional

transit line). (two points; one point if the project is within ½ mile walking distance of the above transit facilities or a ¼ mile of other approved bus routes)

- 5. Provides access to stores, services, schools, employment areas by constructing sidewalks where it does not currently exist within a quarter mile of the development. The cost of the sidewalk improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit can be credited to other categories (Schools, Public Facilities or Circulation) (one point)
- 6. Creates a continuous building frontage along the streetscape with buildings fronting on public streets, and applies the Valley Transportation Authority's standards for walking distance to amenities such as stores, services, schools and major employment centers. (one point)
- 7. Project is designed as "vertical mixed use" with retail/commercial on the ground level and residential above. Larger mixed use projects that combine commercial and residential uses will receive *maximum* points in this category only to the extent that the residential and commercial uses are well integrated with each other, sufficient pedestrian connections between uses exist and parking fields are minimized from the public view (up to two points)
- 8. Provides external bicycle paths, bike lanes or bicycle routes improvements identified in the January 2001 City of Morgan Hill Bikeways Master Plan. Minimum prescribed distance and Design of the bicycle improvements shall be in accordance with VTA's Bicycle Technical Guidelines. Maximum points will be awarded to projects that provide a continuous bike path or bicycle lane improvements between the project and destination area such as stores, services, schools and major employment centers. The cost of the bicycle improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit per point awarded can be credited to other categories (Schools, Public Facilities or Circulation) (up to two points)

## Article III. Procedures for Micro Project Competition

## 18.78.340 Eligible projects.

An eligible project is any type of residential development consisting of a maximum of six dwelling units. A project must also be located on a site which represents the ultimate or finite development potential of the property. In order to be considered as ultimate development, no further subdivision and/or residential development of the property would be possible pursuant to the general plan and this title. The only exception to this limitation would be the construction of a secondary dwelling unit on a single-family lot. (Ord. 1575 N.S. § 23, 2002; Ord. 1397 N.S. § 1, 1998; Ord. 1323 N.S. § 39, 1997; Ord. 1228 N.S. § 14, 1995; Ord. 1034 § 1 (part), 1991)

## 18.78.350 Filing periods.

Applications for development allotment evaluations shall be filed with the community development department on February October 1st each calendar year. (Ord. 1391 N.S. § 1. 1998; Ord. 1228 N.S. § 15, 1995; Ord. 1034 § 1 (part), 1991)

## 18.78.360 Planning officers' review.

The planning officer shall review each application to determine whether or not the proposed development conforms to the city's general plan, Title 17 and this title's requirements. If the planning officer determines that a proposed development does not conform to the general plan, Title 17 and this title, the application shall be rejected. If the application is rejected, an applicant may appeal the planning officer's determination in the manner prescribed in Section 18.78.100(B) of this chapter. (Ord. 1034 § 1 (part), 1991)

## 18.78.370 Evaluation-Standards and criteria.

- A. Projects will be evaluated according to the standards and criteria contained in Sections 18.78.200 through 18.78.330 of this chapter.
- B. In order to be eligible for building allotments, a project must receive at least nine seven and a half points in Part 1 and one hundred twenty-five fifty points in Part 2 of the allotment evaluation. Those that fail to receive a minimum passing score will have the opportunity to improve their designs and reapply during the next competition.

C. To provide a more streamlined process, each micro project application shall be evaluated by the planning officer. The Part 1 criteria shall be applied in the manner consistent with the provisions contained in Section 18.78.200 of this chapter. However, under Part 2 of the evaluation, each micro project shall be assigned the following minimum scores:

Category	Minimum Score
Schools	17
Open space	12
Orderly and contiguous	2
Public facilities	5
Parks and paths	5
Housing needs	8
Housing types	12
Quality of construction	8
Lot layout and orientation	9
Circulation efficiency	8
Safety and security	<del>3</del> 5
Landscaping	7
Natural and environmental	<del>8</del> 7
Livable Communities	5
Total	<del>104</del> <i>110</i>

- D. The planning officer shall examine each proposed development and shall rate each development by the assignment of no more than the maximum number of points allowable on each of the following categories: schools, open space, orderly and contiguous, public facilities, parks and paths, housing needs, quality of construction, safety and security *and livable communities*. The difference between the minimum score provided above, and the maximum score assigned in each of the aforementioned categories, shall determine a project's rating and eligibility for building allotments. In the event that two or more projects receive an equal number of points, the planning officer shall evaluate each project according to the remaining categories.
- E. The planning commission shall review the planning officer's evaluation when the number of residential units in proposed developments exceeds the number of allotments authorized for the competition. (Ord. 1304 N.S. § 4, 1996; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.380 Award of allotments.

- A. Proposed developments which have received a minimum of one hundred twenty-five *fifty* points under Section 18.78.120 may be awarded an allotment for the following fiscal year. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation exceed the numerical limits established by the city council, the available allotments shall be awarded by the planning commission on the basis of the number of points received in Section 18.78.120 starting with the proposed developments receiving the most evaluation points and proceeding in order down the list until the numerical limit established by the council has been reached. Where allotments are made on the basis of a comparative standing on the list, any applicant who has received the required minimum number of points, but who is not high enough on the list to receive a development allotment, may appeal the matter of allotment evaluation to the city council.
- B. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation are less than the numerical limits established by the city council, the available allotments shall be awarded by the planning officer in order of applications received. An open filing period shall then be established and any unused allotments shall be awarded to projects in order of applications received, provided the new projects have received the required minimum score of nine seven and a half points under Part 1 and one hundred twenty-five fifty points under Part 2 in separate evaluations. (Ord. 1391 N.S. § 2; Ord. 1228 N.S. § 16, 1995; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.390 Distribution of allotments.

The total allotments shall be distributed on the basis of points received and without regard to any particular geographical distribution. However, the total number of allotments established by the city council for a given competition shall be subtracted from the one-third of the total allotments which may be distributed without regard to the east/west distribution as provided in Section 18.78.030(C) of this chapter. Based on the results of the RDCS competition for larger project developments, the total number of allotments in the micro projects competition may be subtracted from the one-third of the total allotments east of Monterey Road and the one-third of the total allotments west of Monterey Road. A final determination on the distribution of allotments shall be approved by the city council prior to the February competition. (Ord. 1228 N.S. § 17, 1995; Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.400 Appeal procedure.

- A. An applicant may appeal the planning officer's evaluation to the planning commission, or the planning commission's evaluation to the city council by filing a written notice of appeal with the community development department within ten fifteen days after the notice of evaluation has been mailed as described in Section 18.78.125(A).
- B. In the event an appeal of the planning officer's evaluation is filed, the planning officer shall place the matter on the next available agenda for a regular planning commission meeting. The planning commission shall consider the appeal at such regular meeting at which time the commission will hear the applicant or his representative and such other persons as may be able to assist the commission in the determination of the matter on appeal. The commission may affirm or modify the allotment evaluation. The planning commission's evaluation may be appealed to the city council in the manner prescribed under Section 18.78.130 of this chapter. (Ord. 1034 N.S. § 1 (part), 1991)

## 18.78.410 Development allotment application.

- A. An application for a development allotment shall be made to the community development department on a form provided by the city. Such application shall contain the following information and be accompanied by the documents:
  - 1. Uniform Application.
  - a. Five sets of submittal plans,
  - b. Current title report,
  - c. Filing fees;
  - 2. Site Development and Landscape Plans.
- a. Scale, engineering scale not to exceed one inch equals forty feet on 24" x 36" sheet. Also provide a reduced size copy on 11" x 17" size sheet attached to the project narrative,
- b. Small inset vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the city,
- c. A plan showing general lot layout, general lot sizes, typical lot dimensions, general notes and information; show storm drainage routes and lines, and areas for storm water retention,
- d. Include street alignments showing coordination with city streets and proposed rights-of-way; the plan should also show proposed public works improvements,
  - e. Show proposed planting areas, park areas, and any other proposed uses,
- f. Include the name, address and telephone number of the applicant, architect and/or engineer; also a graphic scale and north arrow;
  - 3. Preliminary Architectural Plans.

- a. Scale: architectural drawings should be included at 11" x 17" size sheet(s) attached to project narrative,
- b. Provide front elevations and range of possible square footage for all models within the project,
- c. Indicate on the plans the type of housing provided, i.e., multifamily, BMR, senior, single-family, etc,
- d. Provide illustrative building elevations showing all sides of one typical model and front elevations of other buildings within the proposed development;
- 4. Project Narrative Questionnaire: submit three copies of the completed project narrative questionnaire;
  - 5. Plan Preparation Guidelines.
- a. All plans shall be drawn on uniform sheets no greater than twenty-four inches by thirty-six inches, or as approved by the community development director prior to submittal,
  - b. All plans shall be stapled together along the left margin,
- c. All plans shall be folded into one-eighth sections or folded in such a manner that the size does not exceed nine inches by twelve inches,
  - d. All plans shall be clear, legible and accurately scaled.
- B. Each application shall be accompanied by a reasonable fee set by the city council as prescribed in Section 18.78.090(B) of this chapter. (Ord. 1391 N.S. § 3, 1998; Ord. 1034 N.S. § 1 (part), 1991)
- **SECTION 2.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- **SECTION 3.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced, as Amended, at the regular meeting of the City Council of the City of Morgan Hill held on the  $2^{nd}$  Day of June 2004, and was finally adopted at a regular meeting of said Council on the  $16^{th}$  Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

© CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL,
CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No.
1677, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of June 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:

IRMA TORREZ, City Clerk

Amendment to Chapter 18.78 Ordinance No. 1575, New Series



## CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

## ADOPT ORDINANCE NO. 1678, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.04 (Administrative Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADDING SECTION 15.04.100 (Violations of Chapter - Penalties) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY AMENDING PROVISIONS OF THE

Agenda Item # 19		
Prepared By:		
<b>Deputy City Clerk</b>		
Approved By:		
City Clerk		
Submitted By:		
City Manager		

UNIFORM ADMINISTRATIVE CODE REGARDING BUILDING ADVISORY COMMITTEES (UAC SECTION 204), VIOLATIONS (UAC SECTION 205), CERTIFICATE OF OCCUPANCY-CERTIFICATE ISSUED (UAC SECTION 309.3), and FEES (UAC TABLE 3-A).

## **RECOMMENDED ACTION(S):**

<u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1678, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

## **EXECUTIVE SUMMARY:**

On June 2, 2004, the City Council Introduced Ordinance No. 1678, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

## **FISCAL IMPACT:**

No budget adjustment required.

## **ORDINANCE NO. 1678, NEW SERIES**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.04 (Administrative Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADDING SECTION 15.04.100 (Violations of Chapter - Penalties) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY AMENDING PROVISIONS OF THE UNIFORM ADMINISTRATIVE CODE REGARDING BUILDING ADVISORY COMMITTEES (UAC SECTION 204), VIOLATIONS (UAC SECTION 205), CERTIFICATE OF OCCUPANCY-CERTIFICATE ISSUED (UAC SECTION 309.3), and FEES (UAC TABLE 3-A).

**WHEREAS,** Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

**WHEREAS,** the City of Morgan Hill has adopted, pursuant to Ordinance No. 1593, the 1997 Uniform Administrative Code for use as the Administrative Code of the City of Morgan Hill for building and construction purposes; and,

**WHEREAS**, the City Council finds that the amendments to Section 15.04.050 (UAC Section 204) is a purely technical amendment which is necessary to clarify which edition of the Uniform Administrative Code is applicable; and,

**WHEREAS,** the City Council finds that the amendment to Section 15.040.060 (UAC Section 205) is necessary to clarify that the penalty for violations applies to all violations of Chapter 15 of the Morgan Hill Municipal Code, which incorporate the Uniform Administrative Code, as well as other technical codes; and,

**WHEREAS**, the City Council finds that the amendment to UAC Section 309.3 is necessary to clarify that the building official may not be the only person performing the final inspection and that the building must be in compliance with all city ordinances before a certificate of occupancy is issued; and,

**WHEREAS,** the City Council finds that the amendments to TAC Table 3-A are consistent with the power granted to the local agency by Uniform Administrative Code Section 304.1 to assess fees, and the fees assessed bear a reasonable relationship to, and do not exceed, the cost of providing such services; and,

**WHEREAS,** the City Council finds that provision of penalties for violation of the uniform codes and Chapter 15 is more appropriately adopted as a separate Municipal Code provision, not as an amendment to the Uniform Administrative Code.

## NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

<u>Section 1.</u> Section 15.04.010 (Document adopted by reference—Copies on file) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Section 15.04.010 Document adopted by reference--Copies on file. Pursuant to Sections 50022.1 through 50022.4, inclusive, of the Government Code of the state, the text of that certain publication published and adopted by the International Conference of Building Officials entitled "Uniform Administrative Code, 1997 1991 Edition," is adopted as the rules and regulations within the city as to all matters therein contained except as herein otherwise provided. One copy of the Uniform Administrative Code will at all times be kept on file in the office of the building official, and is available for public inspection."

<u>Section 2.</u> Section 15.04.050 (UAC Section 204 amended—Building advisory committee) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Section 15.04.050 UAC Section 204 amended--Building advisory committee. Section 204 of the 1997 1991 Uniform Administrative Code is amended to read as follows: . . "

Section 3. Section 15.04.060 (UAC Section 205 amended—Violation and penalty provisions) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Section 15.04.060 UAC Section 205 amended—Violation. and penalty provisions. Section 205 of the 1997 1991 Uniform Administrative Code is amended to read as follows:

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure in the City of Morgan Hill or cause the same to be done, contrary to or in violation of any of the provisions of this Chapter.

Any person, firm or corporation, violating any of the provisions of this Chapter or any of the technical codes including the Building, Electrical, Plumbing, Mechanical, Housing or Abatement of Dangerous Buildings Code, shall be guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or by both such fine and imprisonment."

<u>Section 4.</u> Section 15.04.070 (UAC Section 309 amended—Certificate of occupancy) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

"Section 15.04.070 UAC Section 309 amended—Certificate of occupancy. Section 309 of the 1997 1991 Uniform Administrative Code is amended to read as follows: . . . "

<u>Section 5.</u> Section 15.04.090 (UAC Table 3-A amended—Fees) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

**Section 15.04.090 UAC Table 3-A amended--Fees.** The following have been added to Table 3-A of the *1997* 1991 Uniform Administrative Code:

- (1) Microfilming fees of \$2.00 per sheet are added to Table 3-A of the Building Permit Fee chart and will be required to be paid on all residential, commercial and industrial plans. Microfilming fees of \$5.00 for ten sheets or less or \$10.00 for more than ten sheets of calculations and reports for all other submittals.
- (2) The building official is hereby authorized to waive building permit fees for minor and rehabilitation for single family dwellings where the applicant's total household income is no more than the Santa Clara County Income Guidelines CDBG (50% of median income).
- (3) Plan checking fees are added to Table 3-A of the Building Permit Fee chart and will be required for all extensive energy, handicap, or other miscellaneous plan checks. The fees will be 10% of the valuation for energy and 5% of the valuation for handicapped fees in addition to building plan check fee. Building plan check fees are 75% of the building permit fee, and combination plan check fees are 80% of the building permit fee."

<u>Section 6.</u> Section 15.04.100 (Penalty) of Chapter 15 (Administrative Code) of Title 15 (Buildings and Construction) is hereby added to read as follows:

"Section 15.04.100 Violation. Any person, firm or corporation, violating any of the provisions of this Chapter or any of the technical codes including the Building, Electrical, Plumbing, Mechanical, Housing or Abatement of Dangerous Buildings Code, shall be guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or by both such fine and imprisonment."

<u>Section 7.</u> Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

<u>Section 8</u>. Effective Date; Posting. This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2<sup>nd</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of June 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

BY CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1678, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of June 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:

DATE:

IRMA TORREZ, City Clerk

City of Morgan Hill

Page 4

Ordinance No. 1678, New Series



# CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

# TITLE: AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY, INC. TO CO-SPONSOR THE JULY FOURTH CELEBRATIONS

## **RECOMMENDED ACTION(S):**

Authorize the City Manager to sign the co-sponsorship agreement with Independence Day Inc.

**EXECUTIVE SUMMARY:** In recent years, the City Council has directed staff to negotiate an agreement with Independence Day Inc. (IDI), to co-sponsor the July Fourth

Celebrations. These events include the Golf Tournament, the July 3<sup>rd</sup> Patriotic Sing and Street Dance, as well as the July 4<sup>th</sup> 5K Run, Parade, afternoon Family Festival and evening Fireworks Display. In return, I.D.I. agrees to name the City as a co-sponsor in promoting all of these events. Attached is the agreement for 2004, in which the City will provide supplementary insurance coverage for all of the named events. The City will contribute a combination of funding and in–kind services not to exceed \$25,000.00.

This year the City plans to appropriate \$ 12,000.00 in cash contribution from the community promotions budget for the July Fourth event. The City will also allow for an in-kind contribution of services to be determined based on costs associated with police and public works participation in the event. Police and public works costs associated with this year's event are preliminarily estimated at approximately \$10,000.00. This represents an increase over last year's in-kind costs of \$ 8,620.00. The estimated increase is reflective of salary adjustments and a composite overtime salary rate calculation.

Last year the City provided I.D.I with a total cash and in-kind contribution of \$25, 000.00. Included in this amount the City provided cash contributions estimated at \$10,445.00 to support other costs incurred by I.D.I. These service costs included; Santa Clara County Fire Department services, private security services to supplement police services, ABC licenses, fencing and other items that were required to produce a public event. The \$25,000.00 total also reflects the fact that the City, at the request of I.D.I., increased the original maximum contribution from \$18,908.00 to \$25,000.00. This \$6,092.00 increase was approved by council.

This year, due to a successful I.D.I. fundraising effort, it is not anticipated that I.D.I will request additional funding over and above the maximum limit set by the City.

The actual agreement for the July 4, 2004, event will be similar to the past agreements and will call for:

- 1. The Patriotic Sing, the 5k Run, the Parade, and the evening Fireworks Display, which will again be held at Community Park.
- 2. Upon approval of the agreement, the City will provide a cash advance to I.D.I. of \$12,000.00.
- 3. After submission of financial reports by I.D.I. no later than August 2, 2004, the City shall provide I.D.I. the balance remaining between the total contribution, less the cash advance and the value of the actual City in-kind services which were provided.

**FISCAL IMPACT:** Co-sponsorship of the July Fourth Celebrations is included in the FY 03-04 and FY 04-05 General Fund Community Promotions budgets (010-1220). The total City contribution is estimated at approximately \$22,000.00 for this year's event.

Agenda Item # 20
Prepared By:
Joe G. Sampson Lieutenant
Approved By:
Chief of Police
Submitted By:
City Manager

## REDEVELOPMENT AGENCY/CITY COUNCIL STAFF REPORT

MEETING DATE: June 16, 2004

Agenda	Item #	21

Approved By:

**BAHS Director** 

**Submitted By:** 

Executive Director

## AGREEMENTS WITH JOHNSON LUMBER

**RECOMMENDED ACTION(S)**: Authorize the City Manager/Executive Director to do everything necessary and appropriate to make the requested modification to the agreements.

**EXECUTIVE SUMMARY**: In December 2003, the City Council and Redevelopment Agency approved the necessary agreements with Johnson Lumber to provide for a \$230,000 Agency loan which will be repaid from sales tax revenue based on Johnson Lumber's performance. The agreements establish sales tax thresholds that Johnson Lumber must exceed in order to receive a sales tax "rebate." Since the approval of the agreements, Johnson Lumber has re-evaluated the performance thresholds and is requesting a modification to lower the threshold to be more representative of their average annual sales over the past six years. Specifically, Johnson Lumber is requesting that the performance thresholds be reduced to \$19M, \$21M, and \$24M from \$20M, \$22M, and \$25M. The Council Economic Development (ED) subcommittee, consisting of Councilmembers Tate and Carr who considered the original request for assistance, are recommending approval of this modification.

Attached for your reference are Tables A and B from the agreement which show the existing performance thresholds and sales tax sharing formula. Table A indicates that Johnson Lumber's total sales must exceed a minimum of \$20M in order to trigger a sharing of sales tax. The amount of sales tax being shared increases when Johnson Lumber's sales exceed \$22M and \$25M. Under the current agreement, if Johnson Lumber's sales for the first year were \$20M, Johnson Lumber would not receive any sales tax rebate because it did not exceed the threshold. The proposed modification would result in the City sharing \$5,000 in sales tax revenue with Johnson Lumber based on sales of \$20M. The rebates are not being paid directly to Johnson Lumber, but rather are credited against the outstanding Agency loan balance. This modification may result in the Agency loan being paid off sooner than 10 years.

All the other provisions of the agreements remain the same including the overall sales tax performance thresholds as established in Table B. We have also attached a redline of the development agreement with the modifications for your reference.

**FISCAL IMPACT:** More City sales tax revenue may be rebated sooner than under the original agreement.

TABLE A- Payment Schedule

Baseline Amount in Taxable Sales	Baseline Amount in Tax Revenue Collected By the City attributed to Taxable Sales	Calculation of payment
\$20,000,000 for any Year of Operation	\$200,000	50% times each tax revenue dollar collected above \$200,000 for the Year of Operation
\$22,000,000 for any Year of Operation	\$200,000	55% times each tax revenue dollar collected above \$200,000 for the Year of Operation
\$25,000,000 for any Year of Operation	\$200,000	60% times each tax revenue dollar collected above \$200,000 for the Year of Operation

## TABLE B: OVERALL TAXABLE SALES THRESHOLDS

Threshold Amount in Taxable Sales For Any Year of Operation	Action
\$37,500,000	If the taxable sales category exceeds \$37,500,000 less the taxable sales attributed to Home Depot for any Year of Operation, then the Agency on behalf of the Developer can receive payments per Table A above or
\$57,500,000	If the total taxable sales category exceeds \$57,500,000 for any Year of Operation, then the Agency on behalf of the Developer can receive payments per Table A above.

Submitted for Approval: June 16, 2004

### CITY OF MORGAN HILL JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – MAY 21, 2004

#### **CALL TO ORDER**

Mayor Pro Tempore/Vice-Chairman Sellers called the special meeting to order at 8:35 a.m.

#### **ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Chang, Sellers, and Tate

Late: Mayor/Chairman Kennedy (arrived at 8:37 a.m.)

#### **DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

## City Council and Redevelopment Agency Action

#### **WORKSHOP:**

#### 1. <u>STUDY SESSION REGARDING PROPOSED 2004-2005 BUDGET</u>

Finance Director Dilles presented an overview of the City Manager's recommended budget for Fiscal Year 2004/05. He indicated that the general fund revenues are insufficient to sustain prior levels of spending and that it will be necessary to use reserves according to the City Council's adopted multi-year budget strategy. He noted that the recommended budget reflects an \$800,000 general fund reduction in response to the Council's January 2004 direction. At that time, the Council endorsed the City Manager's Guide to Developing a Sustainable Budget Strategy. He indicated that the Guide proposes a series of steps that will bring revenues in line with expenditures by June 30, 2008, eliminating deficit spending. The Council also adjusted the General Fund reserve to 25%.

Mayor Pro Tempore/Vice-chair Sellers indicated that the Council has not had the discussion of reasons for dipping below the 25% reserve.

The City Council/Redevelopment Agency received presentations from each department head and management staff relating to their respective proposed Fiscal Year 2004-05 budgets, including the Capital Improvement Program budget.

Action: The Council <u>Discussed</u> the proposed Fiscal Year 2004-05 Budget for the City and

Redevelopment Agency as well as the Capital Improvement Project Budget. Staff was

**<u>Directed</u>** to return with the following:

City of Morgan Hill Joint Special City Council and Special Redevelopment Agency Meeting Minutes – May 21, 2004 Page - 2 –

- Incorporate Council's policy statements from the goal setting retreat into budget policies of the budget document.
- Prepare analysis for past two years and the budget year showing how much has been allocated and spent on Community Promotions.
- *Investigate possible private sponsorship for the recycling calendar*
- Report on the number of participants utilizing the after school programs
- Determine how many hours of part time/temps are being budgeted in the Recreation programs.
- Analysis of the Community Development fund balance trends over the past five years.
- Revise section of the budget to reflect the budgeted recommendations by showing the amount of RDA funds spent, committed or recommended through June 30, 2005.
- Analyze fund balance and projects in Fund 347 "public facility" and evaluate whether any discretionary balances can be used for the library project.
- The City/School Liaison Committee should: a) agendize the discussion of a city/school partnership on School Resource Officers (SROs) at Britton, Live Oak and Sobrato; and b) discuss potential maintenance partnerships for landscape maintenance at school/park interface.
- Return with a proposal to reduce an additional \$100,000 from the FY 2004/5 proposed General Fund expenditures.

The Council commended staff for recommending a budget that moves toward the direction of achieving the Council's sustainable balanced budget/long range budget strategy.

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

No items were identified.

#### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 2:49 p.m.

#### MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY

**Submitted for Approval: June 16, 2004** 

### CITY OF MORGAN HILL JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – JUNE 2, 2003

#### **CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

#### **ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairman Kennedy

Late: Council/Agency Member Chang (arrived at 6:25 p.m.)

#### **DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

## City Council and Redevelopment Agency Action

#### **CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session item.

1.

#### CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: Arcadia Development Company

Case Number: County of Santa Clara No. 104CV020598

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session item to public comment. No comments were offered

#### ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

#### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:00 p.m.

#### **CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that authority was given to defend in the case of Arcadia Development versus the City of Morgan Hill as listed above.

City of Morgan Hill Special City Council and Special Redevelopment Agency Meeting Minutes – June 2, 2004 Page - 2 -

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#### **SILENT INVOCATION**

#### **PLEDGE OF ALLEGIANCE**

### **PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

## City Council Action

#### **OTHER BUSINESS:**

## 1. <u>PURCHASE ORDER FOR THE FURNISHINGS, FIXTURES, AND EQUIPMENT</u> (FF&E) FOR THE NEW POLICY FACILITY

City Manager Tewes presented the staff report. In response to Mayor Kennedy's questions, he indicated that existing computer systems will be moved to the new police facility and that new equipment will be purchased and installed as well.

Mayor Pro Tempore Sellers said that in looking at the description of services the City will be receiving, the technician services were \$115/hour which struck him to be a little high. He inquired whether this was an average rate.

City Manager Tewes said that these are the rates that are established in the City's contract with Millers Network as supplemental services. He indicated that the City has recently conducted a procurement for follow up services where eight qualified vendors submitted proposals. He informed the Council that staff will be evaluating these proposals and that the City will be recommending a new contract to the Council in approximately two weeks. He said that the City is reviewing alternatives and that the City may be able to obtain better rates in the future.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action:

On a motion by Council Member Tate, and seconded by Council Member Carr, the City Council unanimously (5-0) <u>Authorized</u> the City Manager to Approve a Purchase Order in the Amount of \$30,000 to Miller Networks, Inc. for Moving and Installation of Current Computers, Servers and Printers and Installation of Newly Purchased Computers and Printers from FF&E at the New Police Facility.

2. <u>APPOINT ECONOMIC DEVELOPMENT SUBCOMMITTEE</u> (EDS) AS CITY COUNCIL REPRESENATIVES TO COMMUNITY MEETINGS REGARDING THE IMPLEMENTATION OF AN AUTO DEALERSHIP (ORAL REPORT TO BE PRESENTED)

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Mayor Kennedy indicated that the EDS met this past Friday and discussed the proposed auto dealership plan for the Walnut Grove area. He said that the EDS talked about the best approach to undertake and how best to involve the community in the process. He recommended that the EDS (Council Member Carr and Mayor Kennedy) be appointed to meet with neighbors and discuss the issues that have been raised, working closely with City staff to help facilitate a solution that will work. The EDS will bring back the solution to the Council. He said that typically, the EDS would have this as part of its role. As reaching out to the community is taking the role a step further, he wanted to give the Council an opportunity to discuss the recommendation.

Council Member Tate stated that he has already met with some of the Walnut Grove neighbors. He said that the neighbors have specific questions they want answered. He did not believe that the EDS could answer the questions for the Council.

Mayor Kennedy recommended that the EDS receive Council suggestions/directions prior to entering into discussions with the neighbors. He said that it was not his intent to speak for the Council.

Council Member Tate expressed concern with the terminology "to facilitate a solution" as stated by Mayor Kennedy.

Council Member Carr stated that the EDS worked with staff last Friday where staff presented their thoughts on how to move forward with the implementation plan for the Walnut Grove PUD. He felt that the EDS would continue to be the Council's liaison to staff, and where appropriate, with the community. He said that the EDS still needs to discuss a lot of the issues. However, he felt that there is a primary role for staff and the consultants such as gathering questions and determining/finding out what the concerns/issues are. He did not believe that the EDS would be negotiating an agreement on behalf of the Council. He felt that the entire Council will need to have lengthy discussions, work on some of the issues, and decide whether it wants to move forward with the PUD.

Mayor Kennedy felt that the EDS was subject to the Council's direction. He noted that he listened to the John Telfer Drive residents' concerns. He brought their concerns to staff where staff identified possible solutions. These solutions were presented and reviewed by the neighbors and resulted in a tentative agreement being worked out, and later approved by the Council. If the Council can take steps to listen to neighbors' concerns, working with staff and the consultant, offering possible alternatives, the EDS can come up with a recommended plan and bring it back to the Council for its consideration.

Mayor Pro Tempore Sellers said that the uniqueness of this situation is that there is an expectation, on the part of the community, that in prior Council discussions, it created a certain decision. The concern he heard, from the onset, was that the Council was hiding behind a previous decision. He felt that the Council should be visible and receptive to listening to the neighborhood concerns. The Council could let residents know that a solution would be a collaborative/collective one. He recommended that the EDS make itself available, advising residents that the Council will work on the PUD together. He supported Mayor Kennedy's recommendation as long as the EDS does not try to craft a solution prior to returning to the Council.

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Council Member Chang inquired whether a general meeting could be scheduled where all Council members could be in attendance. At this meeting, the Council could indicate that it appointed the EDS to work with the adjacent neighbors.

Council Member Carr indicated that staff held a public meeting with the neighborhood residents and that he was not sure whether the Council should be involved in a public forum at this time.

Council Member Chang inquired whether individual Council members could still meet with the residents outside the EDS.

Council Member Tate noted that the EDS could announce that residents can meet with other Council members.

Mayor Kennedy said that it has been his experience, with meetings similar to this one that the public will want to contact Council members directly to see how they feel about certain issues.

Council Member Tate expressed concern that when the Council conducted an earlier workshop, the Council had questions that needed to be answered. However, the Council did not reach a consensus at the workshop. He requested that the EDS not represent an agreement with the residents prior to Council discussion/direction.

Mayor Kennedy indicated that he does not represent a majority vote on the Council. He felt that it was up to the Council to make a decision/give direction. He felt that it was important for the Council to hear the concerns and issues directly. This does not preclude Council members from meeting with individuals, neighbors, etc.

Council Member Tate stated that he would expect frequent committee reports from the EDS.

Council Member Carr agreed with Council Member Tate that the Council did not conclude its discussion at the prior Walnut Grove PUD workshop. He felt that the five Council members will need time to review and work through the issues. He indicated his willingness to serve as the Council's liaison to staff on this issue.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Approved</u> the Mayor's Appointment of the Council Economic Development Subcommittee as the City Council's representatives to community meetings regarding the Implementation of an Auto Dealership.

#### FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

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### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 7:26 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, City Clerk/Agency Secretary

Submitted for Approval: June 16, 2004

### CITY OF MORGAN HILL JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES – JUNE 2, 2004

#### **CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

#### ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairman Kennedy

Late: Council/Agency Member Chang (arrived at 6:25 p.m.)

#### **DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

### City Council and Redevelopment Agency Action

#### **CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

1.

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 3

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

#### **ADJOURN TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

#### **RECONVENE**

#### **CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session.

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## SILENT INVOCATION

#### **PLEDGE OF ALLEGIANCE**

#### CITY COUNCIL REPORT

Council Member Chang reported that the Central Coast Regional Water Quality Control Board is filing an appeal to South County Regional Wastewater Authority's (SCRWA) permit. She said that this will result in a long period of litigation. She indicated that SCRWA will be pursuing a permit in September and if successful in obtaining the permit, SCRWA may not need to go through the appeal process. She indicated that the Santa Clara Valley Water District is increasing its pump tax to \$200 which will amount to a 5% rate increase for the next few years. She recommended that the Council look at the City's water rates in September 2004. She noted that the City has been increasing its water rates by 2% a year for the next four years. She indicated that this has not included the pump tax. In response to Mayor Kennedy's question, she stated that the Sixth District Court of Appeal will be reviewing the appeal of the SCRWA permit to discharge. She stated that the Wastewater Authority won the last appeal hearing.

Council Member Tate reported that the Library Subcommittee has met a couple of times and worked with the Library Commission on outlining a criteria for basing a decision on the library location and funding. He said that the Library Commission will be meeting next Monday night at 7:15 p.m., a week in advance of their normally scheduled meeting. He indicated that the Library Commission will be formulating their recommendations for Council consideration on June 23, 2004 when the Council is scheduled to make its decision on how the City should proceed with the library.

#### **CITY MANAGER REPORT**

City Manager Tewes reported that the aquatics center will be opening on Saturday, June 12 with a gala ceremony beginning at 9:00 a.m. He said that season passes and swim lessons are still available and can be obtained from the Community & Cultural Center. He announced that the police station is nearing completion with a grand opening ceremony scheduled for Saturday, June 26 at 10:00 a.m. He wished the Britton Middle School Band the very best on their last concert of the year being held this evening.

#### **CITY ATTORNEY REPORT**

City Attorney Leichter indicated that she did not have a report to present this evening.

#### **OTHER REPORTS**

Mayor Kennedy presented a Certificate of Appreciation to Eddie Bowers for organizing the Memorial Day ceremony each year.

#### **PUBLIC COMMENT**

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Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

## City Council Action

#### **CONSENT CALENDAR:**

City Manager Tewes requested that item 5 be removed from the agenda, indicating that the item will return to the Council at a later date.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Approved Consent Calendar Items 1-4 and 6-12, as

follows:

#### 1. AMEND AGREEMENT WITH THE STROMBOTNE LAW FIRM

<u>Action:</u> <u>Authorized</u> the City Manager to Execute an Amendment to the Agreement with the Strombotne Law Firm.

### 2. <u>APPROVAL OF A MEMORANDUM OF UNDERSTANDING (MOU) TO CONDUCT A</u> REGIONAL ANNUAL INTEGRATED PEST MANAGEMENT (IPM) PROGRAM

<u>Action: Approved</u> MOU Joining the Counties of Alameda, San Francisco, and Santa Clara, Santa Clara Valley Water District, Fairfield Suisun Sewer District, Vallejo Sanitation and Flood District, and Orkin Pest Management Company to Conduct an Annual IPM Conference.

#### 3. FINAL MAP ACCEPTANCE FOR LANDS OF MARQUEZ (TRACT 9552)

<u>Action:</u> 1) <u>Approved</u> the Final Map, Subdivision Agreement and Improvement Plans; 2) <u>Authorized</u> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) <u>Authorized</u> the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

## 4. <u>ACCEPTANCE OF MAIN AVENUE/UNION PACIFIC RAILROAD (UPRR) CROSSING PROJECT</u>

Action: 1) Approved Change Order for Extra Work in the Amount of \$40,161.11; 2) Appropriated \$21,219 from Unappropriated Water Capital Impact Fund (651); 3) Accepted as Complete the Main Avenue/UPRR Crossing Improvement Project (#524000) in the Final Amount of \$329,805.21; and 4) Directed the City Clerk to File the Notice of Completion with the County Recorder's Office.

## 5. <u>APPROVAL OF COPY MACHINE LEASE FOR POLICE DEPARTMENT AND AQUATICS CENTER</u>

<u>Action:</u> 1) <u>Removed</u> from the Agenda (to be rescheduled/agendized for a future meeting date).

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## 6. <u>JOIN THE APPEAL CASE OF SILICON VALLEY TAXPAYERS ASSOCIATION, ET AL, V. Santa Clara COUNTY OPEN SPACE AUTHORITY</u>

<u>Action:</u> <u>Authorized</u> the City Attorney to join the Cities of Santa Clara, San Jose, Milpitas and Campbell, and the County of Santa Clara, in support of the Santa Clara County Open Space Authority in the Sixth District Court of Appeal case of Silicon Valley Taxpayers Association, et al., v. Santa Clara County Open Space Authority.

#### 7. MOBILE HOME RENT COMMISSION

<u>Action:</u> 1) <u>Accepted</u> Mark Moore's Resignation Effective May 31, 2004; and 2) <u>Approved</u> Mayor's Appointment of Incumbent Commission Members Charles Dillmann, Robert Graham, and John Liegl to Serve Two-Year Terms Expiring June 1, 2006.

#### 8. ADOPT ORDINANCE NO. 1674, NEW SERIES

<u>Action: Waived</u> the Reading, and <u>Adopted</u> Ordinance No. 1674, New Series, and <u>Declared</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS (APN 779-02-014) (DA-03-09: NATIVE DANCER – QUAIL MEADOWS).

- 9. <u>MINUTES OF SPECIAL CITY COUNCIL MEETING OF APRIL 28, 2004</u>. *Action: Approved the Minutes as Submitted.*
- 10. MINUTES OF SPECIAL CITY COUNCIL MEETING OF MAY 19, 2004. Action: Approved the Minutes as Submitted.
- 11. <u>MINUTES OF SPECIAL CITY COUNCIL MEETING OF MAY 21, 2004</u>. <u>Action: Approved</u> the Minutes as Submitted.
- 12. MINUTES OF SPECIAL CITY COUNCIL MEETING OF MAY 26, 2004. *Action: Approved the Minutes as Submitted.*

## City Council Action

### **CONSENT CALENDAR:** (Continued)

Council Member Chang indicated that she has a conflict with agenda item 13 as the property is located near her place of business. She recused herself from voting on this item and stepped away from the Dias.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council on a 4-0 vote with Council Member Chang absent, Approved Consent Calendar Item 13, as follows:

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### 13. ADOPT ORDINANCE NO. 1675, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1675, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-02 FOR APPLICATION MP 04-01: CENTRAL-SOUTH COUNTY HOUSING. (APNS 726-24-07, 022, 023 & 024).

## City Council and Redevelopment Agency Action

#### **CONSENT CALENDAR:**

Action: On a motion by Council/Agency Member Tate and seconded by Mayor Pro

Tempore/Vice-chair Sellers, the City Council/Agency Board unanimously (5-0) Approved

Consent Calendar Items 14-16, as follows:

#### 14. INVESTMENT POLICY UPDATE

<u>Action:</u>1) <u>Reviewed</u> and <u>Adopted</u> the Updated Investment Policy for the City; and 2) <u>Reviewed</u> and <u>Adopted</u> the Updated Investment Policy for the Redevelopment Agency.

## 15. <u>MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MAY 19, 2004.</u>

Action: Approved the Minutes as Submitted

## 16. <u>MINUTES OF REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY</u> COUNCIL MEETING OF MAY 26, 2004.

Action: Approved the Minutes as Submitted

<u>Action</u>: The City Council considered the separate Special City Council/Redevelopment Agency

meeting agenda and considered Agenda Item 27 at this time based on Council policy to

consider Public hearings at 7:30 p.m. or thereafter.

## City Council Action

#### **OTHER BUSINESS**

## 27. <u>GENERATING LEGISLATIVE SUPPORT FOR COMPROMISE BUDGET LANGUAGE</u>

City Manager Tewes presented the staff, indicating that the League of California Cities, California Supervisors Association and Special Districts have qualified an initiative for the November 2004 ballot. He stated that the initiative, which would protect local revenues, led to a compromise proposal by the Governor. He indicated that the Governor would support a ballot measure to protect local revenues

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provided that local agencies supported two more years of takeaways in order to help balance the State budget. He stated that the Council's Legislative subcommittee has reviewed this proposal and is asking the Council to discuss the extent to which the City should actively support the compromise and urge the City's legislators to support the compromise. He indicated that budget hearings have begun in Sacramento and that the Constitution requires the State budget to be adopted by June 15. He said that it is being heard that it will be difficult to meet this deadline but that the Governor is anxious to try and adopt the budget by the deadline. He stated that a recent California poll conducted by the Public Policy Institute suggests that 75% of Californians believe that the State budget gap is a serious issues; 2/3 of Californians do not believe that the legislature is up to the task, and that 60% of Californians support the initiative qualified by the League of California Cities.

Mayor Pro Tempore Sellers stated that the Council's Legislative subcommittee has undertaken a more formal process than it would normally undertake but that this came out of a discussion held about the appropriate way to let the City's views be known. He noted that the City Council has already expressed support through formal resolution but that the Legislative subcommittee felt that the most effective way to address the issue is to recommend that Council members, individually, approach legislative leaders. He said that the Legislative subcommittee is asking its fellow Council members to contact local legislative officials and others who might be helpful. The Legislative subcommittee believes that it is important to advise the community as to the steps the Council is taking and that it is important to encourage legislators to support the initiative. He indicated that the Secretary of State has certified that the initiative qualified and will be placed on the November ballot. The initiative being promoted will give greater weight and will assist in coming up with a better long term solution.

Mayor Kennedy stated that the Council authorized its voting delegate to support the League of California's action, indicating that this has been the only formal action taken by the Council. He inquired whether the Council wants to take any action beyond this.

Council Member Carr indicated that the League is asking cities to adopt a formal resolution and send a formal letter to the legislature. The Legislative subcommittee is recommending that the Council take a less formal approach. He recommended that Council members take it upon themselves to make the individual contacts, as deemed appropriate.

Council Member Tate indicated that the Council received the Legislative Analyst's review of the May revise that opened serious concerns. He did not know how strongly you could endorse something that could have serious flaws.

Council Member Carr said that the Legislative subcommittee discussed the flaws and thus part of the reason why it decided not to bring a formal action/position as it may not have be a 5-0 Council vote.

Mayor Pro Tempore Sellers said that the Legislative subcommittee discussed the fact that the role of Council members is distinct from its roles as citizens of the State of California. He felt that the Council needs to give consideration to what is best for the City of Morgan Hill. He said that the concerns addressed by the Legislative Analyst primarily talked about the fact that when the bill comes due in two

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years, there will be a lot the State will need to grapple with. He felt that it made sense for Morgan Hill to have the revenues back in two years.

Mayor Kennedy said that should the Council take a vote on the resolution supporting the compromise budget measure with the Governor that may result in a 3-2 vote and would not be a ringing endorsement. He felt that a 3-2 vote would do more harm than good, thus the recommendation from the Legislative subcommittee that Council members handle this matter individually.

Mayor Pro Tempore Sellers stated that it is felt that it would be more effective to ask Council members to individually express its views on this as it would give the legislature a view of what is being discussed in Morgan Hill. He felt that individual contacts would carry more weight than having another piece of paper on their desks.

**Action:** Information Item, No Action Taken.

#### **PUBLIC HEARINGS:**

## 17. PROTEST, PRO-04-02: ANNEXATION, ANX-02-02: COCHRANE-BORELLO II – Resolution No. 5799

Planning Manager Rowe presented the staff report, indicating that this is a hearing to receive protest to a proposed annexation. He noted that the property in question is situated along Cochrane Road. He informed the Council that the City received an annexation application, prezoning approximately 15 acres and 1.24 acre parcels. He stated that in order for a City conducted annexation to proceed without notice of a hearing requires 100% of the land owners. He noted that the City does not have 100% consent in this case. He said that the procedures in the Government Code and LAFCo guidelines stipulate that the Council must first schedule a hearing. He noted that the Council took this action at its May 5, 2004 meeting, setting tonight as the opportunity for protesting the proposed annexation. He addressed the procedures to handle the protest. He said that based on the relative land area, the Borello property, being the larger of the two parcels, represents more than 50% of the value. The Council could determine this evening that the majority proponent for the annexation represents more than 50% and allow the annexation procedure to include both properties. The Council could also choose not to allow for the annexation to proceed based on the fact that there is not the consent. He said that the reason it is necessary to include the 1.24 acre parcel is due to the fact that should the larger parcel be annexed, the smaller parcel would be surrounded by the City limits on four sides. The City cannot conduct an annexation proceeding that would result in the creation of an unincorporated island. He informed the Council that a reason for the objection to the annexation is the fact that the county zoned 1.24 acre parcel owner has enjoyed the rural life style and being able to maintain animals on the property. The property owner has a desire to continue to have horses and other animals on the property and continue the same lifestyle. To address the property owner's ability to continue to maintain animals on the property, a condition was placed on the zoning that a 100-foot setback buffer area be provided around the adjacent parcel to ensure that the all of the dwellings are sited at least 100-feet beyond the property line. This requirement would ensure an adequate separation from the proposed new residences from the existing properties. He informed the Council that the project proponent has agreed to this condition.

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Planning Manager Rowe informed the Council that the larger parcel participated through the Measure P competition process and was successful in receiving 15 building allotments. If the annexation is not allowed to proceed or cannot be completed before the fiscal year that the allocations become available, the property owner would have to forfeit those allocations and be reassigned to another project located within the City limits. He informed the Council that the larger parcels are on average under an acre and would not be able to keep animals. However, there are a few parcels that are sized large enough (minimum one acre) to allow animals. He indicated that County zoning allows keeping four horses while the City allows 2 large animals and their immature offspring. If annexed, the property could be brought into the City limits and the property owner would be able to maintain four horses on the property that would be considered a nonconforming use under the City's code. As long as there is no succession of the non conforming use, it would be allowed to continue (cannot increase the degree of non conformity.)

Mayor Kennedy inquired whether there were any written protests to the annexation. None were identified.

Mayor Kennedy opened the public hearing.

Vince Burgos, Development Processing Consultant, informed the Council that he represents the applicant. He indicated that he has worked closely with the adjacent property owner in an attempt to address all issues. He felt that everything was done to accommodate future development with the existing situation. He stated that he did not design the project to accommodate horses and that it was designed to allow flexibility. If there was a preference at the tentative map stage to reduce the lot size where they would not accommodate animals, he has room on the plans to do so. The project incorporated 100-foot setback and large lots to provide the feathering of lot sizes.

City Manager Tewes said that typically, the City does not have a protest hearing because all property owners consent to the annexation. However, this did not occur in this interest. Therefore, it was necessary to hold the protest hearing. At the protest hearing, the Council has invited and closed the opportunity for written protests to be made. He noted that no protests were made. Therefore, it would be appropriate for the City Attorney to advise the Council of its options at this point.

City Attorney Leichter said that seeing that no oral or written protest is before the Council, the Council can adopt a resolution, terminating the protest hearing.

No further comments being offered verbally or written, the public hearing was closed.

Mayor Pro Tempore Sellers said that he understood the reason for feathering the lot sizes. He was encouraged by the fact that the applicant was willing to come up with a compromise in providing the extra land around the adjacent property and allowing the property owner to have extra animals. He indicated that four animals on the 1.24 acre parcel is fairly compacted. While he felt that it was appropriate to accommodate this property owner, he was anxious about allowing or encouraging large animals on the adjacent property as the problem would be extended. He recommended that a statement be made that the Council does not necessarily want to encourage large animals on the adjacent

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properties. He felt that a better solution would be to try and have vacant space or a buffer on the property. He did not believe that the City should be encouraging large animals on adjacent properties as the problem would be extended or created in the future.

Council Member Chang inquired whether the property owner who protested the annexation was informed that there was a public hearing schedule this evening.

Planning Manager Rowe responded that the adjacent property owner was advised of the public hearing and that they were provided with a copy of the staff report and the agenda. He indicated that the reason for the protest hearing was based on the fact that the City did not have 100% consent on the annexation. He said that previous correspondence of October 2003 from the property owner indicating that they were not in favor of the annexation. Following the Council's action to set tonight's hearing to receive written protest, no written protest was received. He indicated that the property owner was advised as to the procedures of a protest hearing.

<u>Action:</u> On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Adopted</u> Resolution No. 5799.

## 18. <u>DEVELOPMENT AGREEMENT AMENDMENT DAA 02-09: DEWITT-MARQUEZ</u> – Ordinance No. 1676, New Series

Planning Manager Rowe presented the staff report.

Mayor Kennedy opened the public hearing.

Patricia Possley informed the Council that the lots have been cleaned/graded, noting that vegetation has been removed, resulting in only three trees remaining on the lots. She expressed concern with the timeframe for the installation of landscaping or means to prevent erosion when the rains come.

Cynthia Bunch also expressed concern with erosion as there is no longer vegetation on the lots to stop the erosion. She stated that with the amount of dust that exists and the project being moved out a year or two will be hard on residents who do not have air conditioning and/or double pained windows. She was hoping that the developer would be able to build seven homes within a reasonable time period. She requested that the Council deny the extension based on her concerns as stated, including noise.

Council Member Tate clarified that the extension request is only for six months in addition to the six months previously granted by the Council.

John Marquez, applicant, indicated that he proceeded with demolition work. He stated that he has funding in place and is ready to proceed with construction. He informed the Council that the first phase (pushing dirt) will take place for all units at the end of June, pulling permits and building the first five units in August 2004, assuming that the improvement plans are completed and accepted by public works. He clarified that he is installing all improvements for both sites at one time. He said that an erosion control plan will be accepted at the same time the improvement plans are accepted.

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No further comments being offered, the public hearing was closed.

Planning Manager Rowe indicated that the homeowners reacted to a rough grading/demolition to remove the buildings and old vegetation that are not slated for preservation. The site is being prepared for the grading permit, the construction of the street, and grading of the pads. He identified the development schedule. He said that erosion control measures need to be in place by October 1 (e.g., hydro seeding, vegetated ground cover) before the rain comes in. There will be other measures required to ensure that erosion and runoff does not occur. He stated that erosion control plans are part of the offsite improvement plan package that are approved by public works. He said that erosion control is not addressed in the development agreement but that staff could include a provision for one should the Council believe it would improve the situation. He said that erosion control is required by City code.

City Manager Tewes indicated that improvement plans must be prepared and submitted by a registered engineer. The plans are reviewed and approved with public works inspectors inspecting these in the field.

Council Member Carr recommended that the development agreement include a condition that by August, the erosion control plan is to be in place as part of the improvements to alleviate the neighbors' concerns.

City Manager Tewes said that City code requires that erosion control measures must be in place by October. He inquired whether Council Member Carr is suggesting that by August, the developer must submit the plans or whether they need to be approved by that date.

Council Member Carr stated that he heard the applicant state that his initial plans will be submitted right of way.

City Manager Tewes clarified that the applicant will submit plans and that staff will evaluate them and send them back to him for any needed revisions.

Planning Manager Rowe said that as part of the approval of the mitigated negative declaration for the project, there are some measures that need to be undertaken to protect air quality. He indicated that dust particles will require periodic watering down. He said that given the input received this evening, staff could ask code enforcement staff to visit the site tomorrow to determine whether the site needs to be watered down because rough grading created the problem.

Mayor Kennedy informed the adjacent neighbors in attendance this evening that the Council would ensure that dust control and erosion control measures will be put into place as part of the approval of this project.

Council Member Carr said that he would like to add a condition that would step up the erosion plan by August 2004.

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City Attorney Leichter said that the Council could include a condition in the granting of the extension to the development agreement to reflect that August 2004 is the due date for the erosion control plan.

Action: On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers, the

City Council unanimously (5-0) Waived the Reading in Full of the Development

Agreement Amendment Ordinance No. 1676, New Series.

On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers, the Action:

> City Council Introduced Ordinance No. 1676, New Series by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618. NEW SERIES. TO AMEND DEVELOPMENT AGREEMENT DAA-02-09 FOR APPLICATION MMP-02-02: DEWITT - MARQUEZ TO ALLOW FOR A SIX-MONTH EXTENSION TO THE APPROVED DEVELOPMENT SCHEDULE (APN 773-08-014), amending the development agreement to require the submittal of a dust and erosion control plan by August 2004 by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None: ABSTAIN: None: ABSENT: None.

Mayor Kennedy requested that the City code enforcement staff inspect the site for dust and make sure that it properly wetted down.

#### 19. 2004 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING

Assistant to the City Manager Dile presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: On a motion by Council Member Tate and seconded by Council Member Chang, the City

Council unanimously (5-0) Accepted the 2004 Hazardous Brush Program

Commencement Report.

#### 20. HEARING FOR EXEMPTION TO UNDERGROUNDING UTILITIES – 17590 DEPOT **STREET**

Director of Public Works Ashcraft presented the staff report, informing the Council that the property owner of 17590 Depot Street is requesting that the Council consider his request to pay in lieu fees versus undergrounding utilities fronting his project. He indicated that the request is in accordance with City code and that staff recommends approval of the request as staff believes it would be more cost effective to install the underground utilities with a larger installation. Should the Council grant the request, the property owner would be paying a total of \$28,840 into the City's underground funds.

Mayor Kennedy opened the public hearing.

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Charles Weston, property owner, clarified that the calculation did not include the property located on Main Street. He felt that the amount should be \$103 per linear feet and that he has 270 linear feet along Depot Avenue. He said that the calculation may be a result of the radius at the corner of Main and Depot Streets. If you take 270 and multiply that by \$103, it would not result in the figure identify by Mr. Ashcraft (\$27,810 versus \$28,840). He indicated that he and Mr. Ashcraft are discussing extenuating circumstances regarding the electrical telephone poles that are not located in the public right of way. However, this is not an agendized item for Council discussion.

City Manager Tewes said that if there is a dispute about the amount of lineal feet, the Council can approve the request subject to verification by the public works director or the Council can postpone the hearing for two weeks in order to allow staff and Mr. Weston to resolve the difference.

Mr. Weston said that Mr. Ashcraft knows the regulation better than he does and that the difference may have to do with the radius that is being taken into account in the City's figure.

Mr. Ashcraft said that there is a method to calculate lineal feet and that it is done consistently. He stated that he was willing to discuss this issue with Mr. Weston. If he is still not convinced that the City's calculation was right, staff could bring this issue back to the Council.

Mr. Weston said that his concern with the schedule is that public works is not allowing the dayworkers the ability to occupy the building until the offsite work is completed. He said that the schedule calls for the dayworker center to be complete minus the offsite improvements for approximately six weeks. He felt that it was imperative that he gets started with the offsite improvements as soon as possible unless staff can make an exception to the rule to allow a temporary occupancy while he proceeds with the construction of the offsite improvements.

City Attorney Leichter indicated that she understands that the difference is \$1,030. She recommended that the Council approve the request subject to verification of the calculations by the public works director, considering Mr. Weston's comments.

Mr. Weston said that he was not too concerned about the money as he was sure that it is a mistake either on his part or public works staff. His only concern was about the schedule. If the Council extends his request for two weeks to allow the calculation to be resolved, it would add two weeks in the delay of opening the dayworker center as the offsite work has to be completed. He requested that the Council allow the dayworker facility to open without the offsite improvements being completed.

City Manager Tewes informed the Council that he and Mr. Weston have had recent conversation about this issue. He noted that this issue was well debated by the City Council. The Council and the dayworker advocates were well aware of the offsite improvement requirements and the reason that the Council lent money to this development entity in order to construct the offsite improvements with deferred payments so that they were not out of pocket during this interim period. He stated that everyone is interested in moving forward with the offsite improvements. However, it is not a question of the public works director deferring the off site improvements to allow the dayworker center to open. He noted that completion of the offsite improvements is required by code before allowing occupancy.

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Mr. Weston said that the design for the drainage inlet required by the public works department resulted in an additional time delay to redesign and go out to bid. Had the drainage issue not occurred, he did not believe that this issue would have surfaced. He indicated that it would take approximately six weeks before the dayworker center would open while he is constructing the offsite improvements.

City Attorney Leichter clarified that the only matter before the Council this evening is the exemption to undergrounding of utilities. Should Mr. Weston wish to appeal the Council's prior decision on the offsite improvements, this would be a separate subject matter. Therefore, she did not believe that this discussion was appropriate under this agenda item.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Sellers concurred that the issue before the Council is narrowly defined and that it sounds as though there is a few dollar difference in the calculation. It was his belief that public works understands the importance of expediting this item and that he has no doubt that the City and the property owner would come to a quick decision on the exact square footage and that actions can be expedited from there. He recommended that the Council proceed with the request.

Council Member Carr agreed that the action before the Council is narrowly defined and that this is not a unique request before the Council. He felt that the public works director can come to terms on the amount. He continues to express concern that had a full master plan been brought before the Council initially, the issue of timing would not be an issue for the Council today. He said that the Council has gone through a round of meetings to talk about the offsites. He did not know why the Council did not include the undergrounding of utilities at the time the loan was granted as well as the special loan for the offsite improvements and resolve the issue at that time. He agreed that public works staff understands the urgency of getting this done quickly so that occupancy can take place on the dayworker center.

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) <u>Granted</u> the Exemption to the Requirement to Underground Utilities with Payment in Lieu Fees for the Proposed Development at 17590 Depot Street.

# 21. <u>APPLICATION ZA-04-08: TEXT AMENDMENT – RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) STANDARDS AND CRITERIA</u> –*Ordinance No. 1677, New Series*

Planning Manager Rowe presented the staff report, identifying the recommended amendments to the City's RDCS standards and criteria. He informed the City Council that the RDCS Subcommittee consisted of Planning Commissioners Joe Mueller, Bob Benich and Ralph Lyle; Dick Oliver, developer; Bill McClintock, MH Engineering; Jan Lindenthal, South County Housing; and Bonnie Tognizzini, Morgan Hill Unified School District. He indicated that this committee met twice a week for approximately six weeks to formulate the revisions to the evaluation criteria before the Council. He

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stated that the changes that are amended under Measure C are required to be implemented within 120-days of the effective date of the Measure, noting that the City is under this deadline at this point in time.

Mayor Kennedy opened the public hearing.

Ralph Lyle stated his support of the text amendments to the evaluation criteria.

Vince Burgos addressed the issue of timing. He said that following the approval of the recommended text amendments, the submittal deadline moves up from November 1 to October 1 and then to September 1 the following year. He said that this timeline does not give developers much time to design a project in three months. He stated that he wants to make sure that he has the time necessary to design the best project possible to submit for the RDCS competition. He requested that the deadline be moved to November 1 or that the Council authorize a start up date sooner than the end of June or early July.

Chris Borello addressed the criteria relating to the developer's point. He said that a project is awarded a point if the project teams up with a developer at the time of submittal of an application (page 235 of the agenda packet, item 5). He noted that it is proposed that a project be awarded a point for teaming up with a developer. If you change a developer halfway through the process or at the end of the process, the project would lose a point. He felt that this criteria would place landowners at a disadvantage as it increases the power a developer has over landowners because the one point would determine whether or not a project is allocated. He did not believe that landowners were aware of the proposed amendment and that if they knew that this was the case, there would be more landowners in opposition. Otherwise, he supports all other recommended modifications.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Sellers addressed the building coverage percentage and the points awarded based on the percentage of the building coverage on the property. He expressed concern that R-3/multi-family densities would not be able to achieve as many points based on a higher building coverage. He inquired whether there was a way to allow R-3 projects to have a higher percentage building coverage.

Planning Manager Rowe responded that the Council could create a point(s) opportunity for applying a separate building coverage standard for multi-family/R-3 projects. He said that there are more opportunities to achieve 20 points under this category where a project is not depended upon achieving as many points for building coverage.

Mayor Pro Tempore Sellers referred to the household water conservation scoring criteria. He said that Council Member Carr previously recommended that the City award points for recycling grey water. He felt that this could be another item that could be given consideration. He recommended that the use of grey water be called out as a specific example. He referred to the architectural variation with the use of porches, balconies, or multi unit courtyards for any area viewed from the public right of way. He said that some of the more exciting higher density housing and downtown oriented projects he has come across in recent months have had internal facing courtyard areas that make the courtyard interior the focus of the community. He recommended that the City figure out a way to address this issue and not

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penalize a project or limit creativity for these types of projects. He stated that he understood the goal of wanting to have a landowner team up with a qualified residential home builder at time of filing an application in order to minimize delays. He stated that he did not believe that it was appropriate to shift emphases heavily toward having a developer on board. He said that he appreciates that the City would like to streamline projects but that he did not want to do so at the expense of creativity or lack of flexibility. He addressed the Orderly and Contiguous category. He recommended that instead of having ½ point penalty increments all the way out from the central core beyond the 3,600 feet, you award one point increments. He supported the ½ points to a certain degree. However, he noted that when a project is far from the core, the project is still receiving the residual value, more than what the City may wish to assign.

Planning Manager Rowe stated that multi-family projects have the nature of having a higher percentage building coverage. He recommended that the Council consider looking at creating a separate point opportunity for R-3 projects. He said that there was a concern that multi family projects may not be able to achieve a qualifying score. Therefore, the RDCS subcommittee reviewed other scoring opportunities such as housing types, quality of construction, lot layout and landscaping. He felt that the double TDC commitment would help make up for the loss of points that R-3 have by virtue of their larger coverage under this criteria and that there are also additional point opportunities elsewhere in the policies to allow for multi family projects to do much butter than they have in prior year competitions. Should the Council make changes under this criteria, the RDCS subcommittee would want to come back with revisions to the evaluation criteria specific to R-3 projects as it may have an unintended affect, resulting in having much larger coverage for single family projects.

Mayor Kennedy inquired how the Council addresses the desire to have mixed use development in the downtown (e.g., retail on the first floor and residential on the second and/or third floor).

Planning Manager Rowe stated that there is a recommendation that 10 units be set aside each year for vertical mixed use development. He clarified that a vertical mixed use developer would not need to compete for these allocations as it is proposed that units are made available on a first come first served basis. He indicated that these allocations can roll over into the next year if not used in the first year. Additionally, there is a set aside in the downtown where vertical mixed uses are typically located. He said that the same evaluation criteria would be used for downtown allocations. He indicated that he did not see a problem incorporating the design of grey water use under the Quality of Construction or Landscaping categories as a conservation measure. Regarding the multi unit courtyards, he felt that the wording could be adjusted. He said that the City should encourage porches, balconies and other elements that would be viewed from the public right of way. If these elements were interior to the project, it would result in a blank facade along the street. He said that the language could be modified to acknowledge that at least 25% of the multi unit courtyards would be able to achieve the same points. With respect to the qualified home builders, he said that staff could return with quantitative information. He said that the reason for the amendment is due to the fact that a landowner would go through the RDCS process on their own, market the project to a builder who in turn wants to make changes to the project. The thought was that if a landowner could align themselves with a builder at the onset, a project would be designed that would not require substantial changes to be made after the fact. He said that approximately half of the project applications are processed by landowners who market their projects to

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a builder. There is a percentage of these where the builder will sell the project to another builder. The new criterion was intended to help streamline the development process and minimize the work load by having to process a new plan when there is a change in developers.

Council Member Carr felt that the problem may be eliminated if the Council was stricter on its approval of extensions with the allotments going back into the pool.

Council Member Tate expressed concern that the City would be making it hard for developers when the problem to be solved is not whether project changes developers but the delays and rework that takes place. He felt that this concern should be more directly addressed in the criteria rather than penalizing the developer.

Planning Manager Rowe said that should the Council concur with the recommended changes to the concentric circle as proposed by Mayor Pro Tempore Sellers, it would result in zeroing out approximately 7,200 feet out from the core versus 9,000 feet. He indicated that this would be a compromise from the recommended gradual drop off compared to the more abrupt one that was done previously. He noted that it would include a greater area of available sites that would have an opportunity for points and would strengthen the idea of developing more concentrically in relationship to the core. He said that the criteria could so be modified. He indicated that this was one approach, noting that the RDCS subcommittee looked at a number of different alternatives. He said that the RDCS subcommittee wanted to see how their recommendation would work for the first few years. If too permissive, the RDCS subcommittee would want to return with a recommendation to tighten up the criteria. He stated that he agreed with Mayor Pro Tempore Sellers' observation and felt that his suggestion would encompass a greater area versus utilizing an abrupt drop in points using the 1 point intervals.

Mayor Pro Tempore Sellers felt that it was important to have the discussion of the concentric circle and felt that it provided a balance. He felt that the RDCS subcommittee did a great job recommending the half point increments going out. However, he felt that at some point you would get diminishing returns. If you get a few points less for being further out, he felt that it defeats the purpose. He felt that it made sense that at a certain point, the City could stop making it half point increments and start assigning a full point.

Ralph Lyle addressed the building coverage concern, noting that there are 26 points that can be achieved in a 20 point category. He felt that there is a good chance that projects could still achieve the full 20 points. He noted that the RDCS subcommittee added points for using grey water under the landscaping 2e criteria

Mayor Pro Tempore Sellers said that if you are not encouraging the use of grey water in the building itself, the project would not be encouraging the use of grey water.

Council Member Carr said that he appreciated that the use of grey water was added to section 18.78.320 but felt that there should be a criteria that would encourage plumbing for grey water.

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Mr. Lyle said that there was a lot of discussion about the cost of plumbing for grey water. With respect to having a developer on board, it was his belief that projects would end up being built later if you do not have a developer on board. Bringing a developer on board at a later date may result in changing the design of the home and the lot layout, pushing the project back.

Council Member Tate recommended that a developer be penalized for pushing the project back rather than penalizing the land owner for not having a developer on board.

Mr. Lyle felt that the landowner may not be able to sell a project if a developer does not like the project. When a landowner sells a project, the project more than likely will be redesigned. He said that as an alterative, the City could state that if a property owner does not have a developer on board in a two year competition, the allotment would be for the second year or you achieve minimum allotments in the first year. This would give the property owner an extra year to sell the project and still have time to redesign the project, if necessary. The RDCS subcommittee felt that this alternative would be more onerous than the one proposed. With respect to distance, he said that the RDCS subcommittee discussed various alternatives. The RDCS subcommittee looked at changing the distance at various places. However, the RDSC subcommittee had a concern that wherever you start drawing a line, you will have individuals stating that there was gerrymandering taking place and they were hurt by where the line was drawn. He said that he has always been bothered by the fact that you may have two projects across the street from each other; one within the core and the other outside the boundary by a few feet, loosing a whole point. He felt that the City has tightened the core area.

Council Member Chang inquired how one would define the term "developer".

City Manager Tewes referred to page 235 of the agenda packet that defines a developer as a "qualified residential home builder."

Mr. Lyle further clarified that a qualified residential home builder is someone who has built homes before of the same variety. He said that the RDCS subcommittee was trying to avoid the delay issue, and thus the recommendation for having a qualified homebuilder on board.

Council Member Carr said that if there is concern with gerrymandering the lines, why not eliminate it as there is a voter approved core. He said that he was trying to recall the discussion of the RDCS update committee, noting that it spent a lot of time on this issue. He said that the core was the compromise between eliminating the east/west split and strengthening the core.

Mr. Lyle indicated that the voter initiative states that everything outside the core is to be treated equally. He noted that there are a lot of projects located between the core and Highway 101 that used to receive the maximum points and now they will not. He said that projects located a way from the core have lost points and that changing the core would not impact these projects. Projects that were being impacted were those projects that were just beyond the core by ½ - 1 point. The RDCS subcommittee suggests that the City use the core design in the first competition to see how it works.

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Council Member Carr noted that in the Planning Commission minutes, Ms. Lindenthal expressed concern about affordable projects in that they would have difficulty scoring 150 points. A way to achieve 150 points was to pay in lieu fees, defeating the purpose of affordable housing.

Planning Manager Rowe stated that the RDCS subcommittee met again following the planning commission meeting and made further changes that improved the scoring for affordable projects.

Mr. Lyle clarified that the R-3 projects now have additional point opportunities that they did not have before in being able to achieve minimum passing scores. He felt that Ms. Lindenthal's concerns have been adequately addressed.

Dick Oliver indicated that in his 1995-96 Measure P applications, he proposed the use of grey water. He did not know of any city that has approved a grey water system because of health issues or being unable to find a supplier who could install the grey water system. Therefore, the subcommittee could not recommend the use of grey water in granting a point as it adds cost to the builder when there is no guarantee that it could be hooked up to a meaningful grey water system.

Mayor Kennedy recommended that the City add language that would encourage a grey water system as an alternative.

Mr. Oliver said that he does not want to throw money away on a system that is not feasible at this time. He said that an instant hot water system could fit the criteria.

Council Member Carr said that the grey water issue is important to him. He felt that the Mayor's suggestion of including a grey water system as an example was a good suggestion. Regarding the issue of having a qualified residential home builder on board at time of application, he did not know the answer to this. He expressed concern that the City would be placing the landowner at a disadvantage. He noted that Council Member Tate felt that the Council needs to address the issue of delays and refilling applications versus bringing a developer on board early in the process.

Planning Manger Rowe informed the Council that Measure C states that RDCS applications are to be filed no later than 21 months prior to allocations.

City Attorney Leichter said that if it is the Council's intent to have the first reading of the ordinance this evening, the Council needs to identify and make changes this evening. The changes can be made orally and incorporated them into the ordinance this evening.

Mayor Kennedy recommended that the Council take action this evening, identifying the modifications to be incorporated into the ordinance. He noted that the grey water item is an easy one to address. He stated that he would support giving the core recommendation a try.

Council Member Carr stated that he was also willing to give the core recommendation a try.

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Mayor Pro Tempore Sellers said that he too would be willing to use the core criteria as presented for a year. However, he requested that a similar map be produced a year from now or after going through the first competition that shows what the allocation distribution.

Mayor Kennedy noted that the Council generally agrees with most of the recommended changes with the most difficult one being the qualified residential home builder. He recommended that this be handled as a separate amendment in the future.

Planning Manager Rowe said that the Council could strike reference to the qualified residential home builder from the proposed ordinance this evening.

Mr. Lyle noted that it was recommended that R-3 projects compete under a separate set aside so that R-3 compete against themselves as it relates to building coverage.

Planning Manager Rowe felt that with the changes made, the proposed text amendments would create enough opportunity to ensure that affordable projects would achieve above minimum scores. If it is found that a problem still exists, there is an opportunity, in between competitions, to make further changes.

Council Member Carr indicated that the only other area he has concern is regarding water conservation. He stated that he appreciated all the work that went into the text amendment to talk about drought tolerant landscaping. He referred to section 2.d, requires that at least 50% of all plant material and water conserving plants to be used. He inquired whether this was enough or whether an even greater amount should be encouraged based on the significant water issue being experienced. He suggested that ½ point be awarded when utilizing 50% water conserving plants and 1 point when utilizing greater than 50% water conserving plants.

Mayor Kennedy recommended that this criteria be changed to utilizing 75% drought tolerant landscaping.

Action:

On a motion by Council Member Tate and seconded by Council Member Change, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1677, New Series, Amending Articles II and III of Chapter 18.78 of the Morgan Hill Municipal Code.

Action:

On a motion by Council Member Tate and seconded by Council Member Chang, the City Council <u>Introduced</u> Ordinance No. 1766, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE, incorporating the following amendments: 1) 18.78.280.8.2b to include grey water (recycled water) system for irrigation; 2) 18.78.280.4a amended to award 2 points for use of multi-unit court yard interior to the project; 3) 18.78.280.5 deleted; and 4) Section

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18.78.320B.2d amended to increase the water conserving plant selections from 50% to 75% in the landscape, by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

## 22. <u>CITY MANAGER'S PROPOSED 2004-2005 BUDGET AND CAPITAL IMPROVEMENT PROGRAM</u>

Finance Director Dilles presented the staff report, noting that the staff report identifies additional savings based on the Council's direction to staff to return with \$100,000 in additional expenditure reductions in the general fund in order to be able to stay on the sustainable budget strategy adopted by the Council. He said that the specific recommended cuts are identified in the agenda packet.

Mayor Kennedy noted that initially, there were high energy utility costs associated with the operation of the community and cultural center. He inquired whether the high energy utility costs were under control. He said that it may be smart to bring on board a consultant/contractor who can investigate whether there were ways to cut down the operating costs for the center, an individual who will guarantee a return on energy savings, looking at the energy costs of a facility.

City Manager Tewes stated that staff still has a concern regarding the high energy utility costs and that staff has retained a series of consultants to work the City on this concern. He indicated that some improvements have been made. He said that there are items being recommended and that staff is evaluating these in the context of design and construction claim issues.

Mayor Pro Tempore Sellers confirmed that the Council received an extensive report and participated in a budget workshop. Therefore a lot of the Council's concerns have been addressed. He said that Public Works made a presentation where they outlined a creative and well thought out plan for reducing costs by turning some of the City's landscaping into different uses, and not having quite as dense landscaping. He expressed concern that as the City goes through these cuts, the City will be taking actions that cannot be reversed or replaced as easily. He inquired to what degree the park areas are proposed to be eliminated and slated for replacement at some point in the future. If there are no plans to replace park improvements, he felt that the Council/City needs to be clear about this and not let the public believe that this is a temporary situation when the City is making permanent changes.

City Manager Tewes stated that it is clear that the recommendation before the Council suggests that all future and existing parks will have less turf area than exists today; a consequence of having to bring the budget to a sustainable balance over the next couple of years.

Mayor Kennedy stated that the City has made significant cuts in the budget. For the most part, the cuts have been painless to residents. He said that lots of services have been cut and that the City is operating with a leaner operation, creating stress on city employees as they have to do more with less. He stated that the Council has been trying to reduce the budget without having to cut services. For the large part, the services that have been cut have not been visible to the public. He indicated that this year, the City will be cutting \$900,000 from the budget, noting that last year and the previous year, the City cut 5%

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from the budget. He said that the City wants to provide the best service to the public, yet the City has to make serious cuts. At some point, it will become obvious to the public that services will be impacted.

City Manager Tewes indicated that in January 2004, the Council adopted a sustainable budget strategy. This strategy suggests that rather than making dramatic, radical and adverse cuts that would affect the community, that the City takes a series of measures/planned steps over the years to bring the budget into balance. This was done to avoid significant adverse impacts on the community. The Council indicated a desire to first look at reductions in "less critical services." He said that the cuts that staff has been recommending are in the less critical services, noting that direct public safety services are still of high priority. He stated that the sustainable budget strategy requires that the City takes a series of budget reductions this year and next. It also requires that the City adds to the revenue base the following years. These actions are required to maintain the current levels of services. He indicated that the sustainable budget does not address the growth of the community and the demand for increased services. The gap between what the community expects and what the City will be able to deliver may continue to grow. He stated that he is proud that the City organization was able to step up to the plate and identify the cuts being recommended to the Council.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Tate said that in previous years, the City had the ability to add items to the budget and had the capability of providing enhanced services. He said that the City is at a point where it has to cut the budget by \$900,000 and that the Council will have a discussion about where it can go to raise revenues in the future so that the City can achieve a balanced budget. He stated that the Council cannot suggest incorporating items back into the budget unless you can suggest where the funds could be taken from. He complimented staff for meeting the Council's objective of a balanced budget.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) <u>Directed</u> Staff to Incorporate \$100,000 in Structural General Fund Expenditure Reductions to the Proposed 2004-2005 Budget, as Delineated by Staff.

## 23. <u>APPROVAL OF 2003 REPORT REGARDING PUBLIC HEALTH GOALS FOR WATER QUALITY</u>

Director of Public Works Ashcraft presented the staff report. He indicated that the report addresses the risk of exceeding the public health goals and the cost to the agency for the removal of contaminants. He stated that the purpose of the report is to give the public an opportunity to ask questions before staff posts the report on the State Health Department's website. In response to Council Member Carr's question, he indicated that most communities are finding that lead and copper are being detected as a result of it going into the water within the homes and not from the City's drinking water system. He said that the City is not finding lead or copper in new homes but in the older homes built in a certain era.

Mayor Kennedy said that it was found that brass contains lead. This typically occurred in homes where older solders included lead. He said that newer solders no longer use lead and that the amount of lead

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found in brass fittings is being reduced as well. When you have water that is corrosive, it leaches the lead out of the solder from brass fittings. This is how it gets into the water, originating from the homes. He said that it is the City's challenge to deliver water in a manner that is not corrosive. He requested additional information on this particular point.

Mayor Kennedy opened the public hearing. No comments were offered.

**Action:** Information Only.

24. AMENDMENT OF MUNICIPAL CODE REGARDING AMENDMENT OF UNIFORM ADMINISTRATIVE CODE PROVISIONS, INCLUDING FEE REVISION – Ordinance No. 1678, New Series

City Attorney Leichter presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) <u>Waived</u> the Reading in Full of Ordinance No. 1678, New Series, Amending Chapter 15.04 (Administrative Code) of Title 15 (Buildings and Construction) of the Municipal Code of the City of Morgan Hill and Fees.

Action:

On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council Introduced Ordinance No. 1678, New Series, by Title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.04 (Administrative Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADDING SECTION 15.04.100 (Violations of Chapter - Penalties) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY AMENDING PROVISIONS OF THE UNIFORM ADMINISTRATIVE CODE REGARDING BUILDING ADVISORY COMMITTEES (UAC SECTION 204), VIOLATIONS (UAC SECTION 205), CERTIFICATE OF OCCUPANCY-CERTIFICATE ISSUED (UAC SECTION 309.3), and FEES (UAC TABLE 3-A) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

## City Council and Redevelopment Agency Action

#### **OTHER BUSINESS:**

25. HOUSING TYPE, DISTRIBUTION AND TERM FOR 2004-2005 MEASURE "C"
COMPETITION (FY 2006-2007 BUILDING ALLOTMENT) AND SEPARATE
DOWNTOWN AREA COMPETITION (FY 2007-2008 BUILDING ALLOTMENT)

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Planning Manager Rowe presented the staff report, indicating that the Planning Commission recommends the Council establish an affordable set aside that would represent 20% of the 250 allocations. Further, it is recommended that the Council reserve approximately 4% of the total allocations for micro projects. The balance of the 250 allocations (approximately 70% of the total) would be allocated in the open market competition, noting that a portion of this number has already been In addition to the affordable/micro set asides, it is being allocated in last year's competition. recommended that the Council establish an allocation for ongoing projects. He informed the Council that only three projects are eligible as ongoing projects. Regarding allocations for projects in the downtown area, he indicated that one change in Measure C requires that a separate allocation be provided for projects that are located in the downtown area. The Commission is recommending that 15 units be allocated in 2005-06 and that this number be increased to 40 units in 2006-07. It is also recommended that there be a two-year competition with the exception for the downtown area such that developers have an opportunity to apply again the following year. He said that should the City have no one interested in downtown allotments in the first year, the allotments could be allocated to other projects in the open market competition. If this occurs, there would be 55 allocations available in 2006-07.

Mayor Kennedy thought that the Planning Commission was going to discuss the idea of having a competition soon (within a year) that would allow for downtown projects.

Planning Manager Rowe clarified that there will be a competition to be held for downtown area projects with a filing deadline of October 1, 2004. If there are no applications for the 15 allocations in the downtown, these allocations would be allocated to other projects in the open market competition as there is a requirement under Measure C that the allocations for this fiscal year must be allocated no later than 16 months prior to the start of the fiscal year. Should the City wait until next year, the City would be violating this requirement. To ensure that the downtown set asides remain whole, it is recommended that the City redistribute the set asides in the following year to open market projects. This would result in the reduction of 15 allotments available in 2007-08. These allotments would be shifted to the downtown area set aside. He indicated that another requirement of Measure C is that the Council defines the geographic limits for the downtown area. He informed the Council that the Planning Commission recommends that the downtown area be the area that is south from Main Avenue, west of Butterfield. north of Dunne Avenue and east of Del Monte Avenue. He identified the difference between the downtown area and the central core. He stated that a new category created, as a result of Measure C, was small vertical mixed use. It is being recommended that 10 units be set aside in each of the two fiscal years (2006-07 and 2007-08). These allocations can be distributed through a competition process or on a first come first serve basis. Any portion of the unused allocations would be carried over into the next year as provided by Measure C.

Mayor Kennedy opened the floor to public comment.

Johanna Tacci indicated that she and her sister Carol Tacci were in attendance to address the family property located on Monterey Road. She stated that the family would like to see an R-3 open market set aside. She indicated that no market rate R-3 projects have been approved during the entire lifespan of

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Measure P. She said that all previous R-3 set asides have been for low income housing. She felt that the City is missing a housing type in Morgan Hill that would benefit the community, particularly children.

Ralph Lyle said that depending on what action the Council takes with the downtown set asides, the Council could decide next year to hold a two year competition, staggering the types housing competition to be held as an option.

No further comments were offered.

Planning Manager Rowe said that should the Council decide to have a separate set aside for open market R-3 projects, he felt that it would be better to do so in the year that the City has a full set of allocations (2007-08). He said that the allocations could be divided further but that it would result in fewer allocations being made available for single family or ongoing projects in the competition year. He stated that the City has been able to achieve the 20% multi family requirement through affordable housing set asides. He noted that there is a potential for downtown projects to provide market rate multi family housing units. He said that the Council could set aside allotments in the open market competition for R-3 projects and that staff would have to redistribute the numbers (e.g., reducing allotments from "any of the above" from 2006-07 and 2007-08 depending on the percentage or total number of set asides that the Council wants to establish for R-3 market rate units).

Mayor Pro Tempore Sellers agreed that multi family units is an area that the City is not capturing, noting that the City has a lot of young professionals who would like to have a high quality project to live in. He felt that this is an area that the City should encourage. Regarding the map that defines the downtown, he recommended that the area be extended north to Central Avenue and south to Bisceglia as there are significant housing development/infill opportunities. He felt that these areas would provide benefits in terms of access to the downtown, services, walkability, and access to transit, keeping to the core area concept. He stated that he would encourage the Downtown Association, the Economic Development Subcommittee and other organizations to actively contact property owners. He indicated that the best projects may not be the first ones in line for allocations. He noted that there were a lot of non resident property owners in the downtown area who may be waiting for the right opportunity. He recommended that the City be more active in promoting housing opportunities. He encouraged an earlier filing deadline for the downtown competition, advising downtown individuals of the filing deadline. He would support setting aside 15 units in each of the years for open market multi family allotments.

Mr. Lyle stated his support of a two-year competition. He expressed concern with getting rental set aside projects completed. He also expressed concern that with the set asides, noting that more than half of the units would be allocated without a competition.

Council Member Chang, Mayor Pro Tempore Sellers and Mayor Kennedy recommended that 15 multi family allotments be set aside for 2007-08 and 20 allotments under "any of the above" set aside category.

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Planning Manager recommended an October 1, 2004 application deadline for multi family set asides in order to keep them on the same sequence as the open market units with the exception of the downtown area which will occur this year and next year. He further recommended that the Council stipulate the core area as depicted on the "core" map as there are some industrial areas that would follow the same alignment.

Council Member Carr stated that when the City reviewed the RDCS update, it was designed on the downtown task force map. He inquired whether a change to the downtown update would be necessary as it was his belief that there needs to be uniformity between the two. If the City is talking about downtown and benefits to the downtown, he wanted to stay consistent.

Mayor Pro Tempore Sellers said that the Downtown Plan addresses a broader variety of issues, including retail and multi mixed use projects. He said that with a residential use, you have a different set of criteria and benefits that can accrue. He inquired whether the same benefits would be accrued if the area is extended a little north and south.

Council Member Chang felt that Mr. Lyle raised a good point by stating that having nothing but set asides would result in not having a competition. She stated that expanding the downtown would allow for competition in this area.

Council Member Carr recommended that should the boundary be extended, the boundary be uniform with that of the Downtown Plan when it returns to the Council. He recommended that a priority be given to a downtown project in 2006-07. However, should the downtown units not be used in 2006-07, he recommended that the 15 downtown allotments be awarded to an R-3 project in 2006-07 to get the multi unit project(s) started earlier. He said that this would result in 55 downtown units in 2007-08.

Planning Manager Rowe indicated that the 2006-07 downtown units could be awarded to a multi-unit project if a downtown project does not come forward.

Council Member Tate expressed concern that the City may be moving away from an RDCS competition with set asides.

Dick Oliver noted that the City received 20 applications in last year's competition with 12-15 projects not receiving allocations. He said that the recommended set asides would essentially eliminate single family and R-2 projects. He said that an R-3 application has not been submitted for several years and that there has not been a demand for multi family allotments. He felt that the City would be holding a competition for single family and R-2 projects where maybe 2 out of 20 applications would receive allocations. The unsuccessfully project proponents would question the competition.

Council Member Chang noted that the R-3 zoning district allows approximately 20-25 units per acre. These are you typical townhouse/condominium type development at a cost of approximately \$300,000-\$400,000, affordable to the average young adult. She noted that the single family homes being constructed cost approximately \$800,000 to purchase. These homes are not affordable to the average

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person. Thus, the reason she believes that R-3 projects are important, noting that there has only been single family homes built.

Council Member Carr stated that he is suggesting that should there not be a request for the 15 downtown set asides in 2006-07 that they be made available to a multi family project(s). However, he acknowledged that Mr. Lyle raises a good point. He said that based on staff's presentation, there is not an expectation that the City will have downtown projects competing in 2006-07. If there is an opportunity to use 15 units for an R-3 project in 2006-07, he felt that this should be done.

Mayor Pro Tempore Sellers noted that Morgan Hill has the highest percentage of single family homes being built in the entire county. Therefore, the City is not hurting in terms of percentage. He agreed that there is a higher percentage of set asides being recommended than the City has had in a long time. He said that there is a reason for this; the City wants to get a housing balance back in the community. He said that the downtown competition is short lived (2-3 year shift) and that the allotments would shift back in a few years, rectifying any issues.

Mayor Kennedy noted that it appears to be the consensus of the Council to leave the 15-unit multi family allocations for 2007-08.

#### Action:

On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) <u>Adopted</u> the Resolution Approving the Total Building Allotment and Distribution and Authorizing Measure C Competitions to be Conducted During Fiscal Year 2005-2005 for the FY 2006-2007 and FY 2007-2008 Building Allotment and Authorizing a Separate Downtown Area Competition Next Year for a Portion of the FY 2007-2008 Building Allotment; amending Section 2.c to change Main to Central and Dunne to Bisceglia with staff to reference an exhibit that depicts the area. Exhibit B to be amended for 2007-08 to include 15 set asides for multi family in the open market rate competition, reducing "any of the above" to 20 units.

#### 26. <u>REVENUE INCREASE REVIEW</u>

City Treasurer Michael Roorda presented the staff report on behalf of the Finance and Audit Committee, indicating that public safety is a majority of the general fund. He said that this is a key item, one that the Council wanted the Committee to look at closely so that public safety is not impacted as it was in the early 1990s. He addressed the budget actions that have occurred over the past years, including being able to increase the general fund reserve. He indicated that there are significant issues that need to be resolved. He stated that over the past 2-3 years the Council worked into the City's budget projection and forecast additional increases in services. As the City saw the actual results of incoming revenues, belt tightening took place, including dipping into the City's reserves over the past couple of years which will be necessary in the upcoming years. He said that instead of having a two year budgeting process, the Council was thoughtful in having a more strategic review of a five year period where it directed staff to evaluate where the City will be in five years if it continued in its current trend. It was clear that the City would have to use its reserves over this period of time without some action being taken. He said that cost cuttings are taking place and will affect services. He stated that there will be additional cuts

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over the five year strategic period that will be implemented to achieve a balanced budget. However, the other component of the balance budget is to find a way to increase revenues to the City. He said that additional revenue sources may come from various opportunities (e.g., increased fees, increased taxes, increased economic development activity).

<u>Action</u>: On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) agreed to extend the 11 p.m. curfew.

City Treasure Roorda presented a power point presentation that highlights the Finance & Audit Committee's recommendations to help direct the Council's direction, efforts and emphasis over the coming weeks, months and years for potential increase in revenues to the City's general fund. He addressed the following: 1) Educating the public of what the City is dealing with and the objective of having a balanced budget within a time period. 2) Answer questions as to why a revenue increase is needed. 3) Identify dollar amounts that would be needed to sustain a balanced budget. 4) Presented a matrix that defines possible revenue source opportunities. 5) Examine a single source revenue versus multi source revenue. 6) Evaluate increasing user fees versus going to voters for a broad based tax increase. 7) Identify selection criteria for fairness and equity of potential revenue sources. 8) Creation of a revenue matrix that identifies potential taxes, revenue sources or fees. 9) Discuss plans for incremental economic development and current inhibiters to development. 10) Means to provide community input (e.g., advisory measure; community polling, community workshop or community blue ribbon task force that would advise Council). 11) Try and avoid divisiveness not only in the community at large but on the Council, working toward a unanimous decision no matter what may come out of deliberations. 12) Communicate timing for a November Ballot Measure, with a final date for submittal of a ballot measure by July 21, 2004.

Finance Director Dilles informed the Council that a general tax measure has to be voted upon by the voters at a general election of Council members unless the City Council, by unanimous decision, finds that there is a fiscal emergency.

Council Member Carr said that there has been discussion about demonstrating to the public that the City has made cuts and that the Council is dealing with the budget situation by looking at cuts first. He said that the difficulty in doing this is that it is a strategic goal over a five year period. He stated that a Council stated goal is not to be forced to make dramatic service cuts. He felt that demonstrating this fact is difficult as the City is not shutting down a fire station, the library nor taking actions that would demonstrate dramatic cuts because it is a Council goal not to do so.

Council Member Chang noted that the City has cut \$900,000 from the budget this year, a point that needs to be told to citizens on top of two years of previous cuts.

Mayor Kennedy said that in his discussions with the City Manager, there is a mid July date to have a ballot measure completed. It is his understanding that it would take staff 2-3 weeks to have all the documents ready to proceed. He said that a Council decision would have to take place by the June 23, 2004 meeting if the Council wants to proceed with a ballot measure.

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Council Member Carr thanked City Treasurer Roorda for his leadership in putting together a framework that facilitated the Finance and Audit Committee through these discussions.

Mayor Kennedy recommended that each Council member provide an overview on these issues with the idea of coming back on June 23 with specific recommendations/action items. He felt that it was important to bring revenue options to the voters. He noted that it is clear that the financial forecast shows that the City needs additional revenue in addition to economic development growth. He said that the 911 dispatch fee would raise approximately \$800,000 in revenue and should seriously be considered. He also felt that an increase in sales tax could result in \$1.1 million in additional revenue and should also be considered.

Mayor Pro Tempore Sellers concurred with the general sales tax as an option. He noted that in order to provide the current (meager) level of service, the City needs to look at a revenue source that would provide general income. As this is a general revenue stream that is needed, the City should go to the citizens and state that it is a general tax that the City is pursuing that would closely match the projected revenue needs in the future. He noted that the 911 fee has been popular in a couple of communities. He said that it is attractive and relatively painless to implement at the front end but that it would not be as evenly disbursed in some ways. He felt that the 911 would impact lower income individuals and that it may face a court challenge. He recommended that the City takes an action that is as straight forward as possible. Further that this presentation be presented to other organizations. He noted that time is of the essence. He offered to phone in and cast his vote on the issue on June 23 as it is imperative that the entire Council weigh in on this issue.

Council Member Tate said that his preliminary thoughts are that he does not like the fee approach to the 911 and if being considered, it should go the voters. He expressed concern that this is a plan that the Council is studying as a steady revenue source to cover current services. He indicated that he served on the Fire Master Plan update and that that there is a vision of constructing a fourth fire station. He felt that the City needs to consider and factor in more than just the existing services in considering this issue such as safety services in the future. He would agree to look at public safety services and the options, looking at the First Master plan, and how to incorporate some of the information into the planning process.

Council Member Carr said that he has not gone through and picked the appropriate tax because there are a lot of questions that need answers. He said that he was concerned about timing, believing that the City had to place a measure on the November 2004 ballot. However, the City Manager has some thoughts about this that has lessened his urgency on this date. It is felt that a stable reliable funding source is more important than an immediate funding source. He recommended that the Council discuss this further. He felt that the City needs to identify what it will get from a tax measure: holding current services study or will the City be able to expand services. He stated that the Council needs to have a discussion about examining many versus one revenue source. He said that there are a number of revenue sources listed on the chart that all by themselves could take care of the City's revenue problem. He inquired whether this is the way to proceed or whether the City should be looking at multi revenue sources that would get to the heart of fairness, equity, and neutrality. He also felt that the Council needs to have the conversation about complete cost recovery. He stated that he was not in favor of complete cost recovery

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for all services taking place in the City. He felt that there were other services that the City should be seeking a greater cost recovery and that the City should be demonstrating these. Another area that should be discussed is economic development, identifying the current inhibitors to development and to what extent the City can count on economic development for revenue. The Council needs to discuss whether it wants to be aggressive in economic development and limit all of the inhibitors in place today, no mater the impacts. He said that he is willing to pay a higher tax somewhere else so that he does not have to have all of the impacts associated with big box stores. He felt that the Council needs to be able to answer these questions for the public before identifying the possible revenue source.

Council Member Chang agreed that economic development would be a good topic to discuss. She said that the City could increase fees or increase the right type of economic development. She agreed with Council Member Tate that the Council needs to look at revenues that would allow the City to increase services. She stated that she was not yet ready to take a tax measure to the voters in November 2004.

Mayor Pro Tempore Sellers inquired whether the Council wants to move forward in November with a potential tax measure. If not, the Council could conduct a more detailed analysis as its next phase of discussion.

Mayor Kennedy recommended that this item be agendized for June 23 and the first meeting in July 2004.

City Manager Tewes indicated that the long range budget strategy states that the City needs to take certain actions in certain fiscal years in order to come into a "soft landing," a continued reduction in the City's reserves to a point where they are down to a 25% level. From this point on, the revenues would need to equal expenditures. As the City is talking about structural issues, he felt that it was critical that the City has a steady and reliable revenue source rather than having one that is not as steady and may be challenged.

<u>Action:</u> It was the Consensus of the City Council to <u>Direct</u> staff to schedule this item for its June 16, 2004 meeting date and the first meeting in July, if necessary.

### FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:35 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



### CITY COUNCIL STAFF REPORT

MEETING DATE: June 16, 2004

ZONING AMENDMENT, ZA 04-01/ DEVELOPMENT

AGREEMENT, DA 04-01: TILTON-GLENROCK.

### **RECOMMENDED ACTIONS:**

- 1. Open/Close Public Hearing
- 2. Waive the reading in full of the Zoning Amendment Ordinance
- 3. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
- 4. Waive the reading in full of the Development Agreement Ordinance
- 5. Introduce on first reading the Development Agreement Ordinance

<b>EXECUTIVE SUMMARY:</b> A request for approval of an amendment to the Precise	
Development Plan for phase 6 of the Capriano project located on the east side of Hale	
Ave., South of Tilton and west of Monterey Rd. The purpose of the current RPD	
amendment request is to receive approval of revised models and floor plans, the insertion	of additional
story homes and the incorporation of the moderate rate units per the project's RDCS commi	tment

The current amendment addresses only 24 lots (8.7 acres) as phase 6 in the R-1 12,000 portion of the project. The R-2 area and the remaining single family area would be addressed at a later date under a separate RPD amendment application. The current request will utilize the project's remaining 2004-05 building allotments and develop approximately one half of the remaining R-1 12,000 area within the project.

On May 11, the Planning Commission recommended approval of the RPD amendment, citing specific locations for the moderate rate units. After the May 11 meeting, the applicant found that two of the lots cited by the Commission could not be adjusted to accommodate the moderate rate homes. The applicant revised the development plan showing new locations for the moderate homes, however, the new locations differed from the lots cited in the Commission's May 11 approval. The revised RPD plan was reviewed by the Commission on June 8. The Commission voted 6-0 (Engles absent) recommending Council approval of the revised precise development plan for phase 6 of the Capriano project.

In accordance with established Council policy, all residential projects awarded building allotments through Measure "P" must secure Council approval of a development agreement. Development agreements are required as a formal contract between the developer and the City. The Development Agreement for Phase 6 is attached for Council review. The 2002 Measure "P" commitments and a processing schedule are included within the agreement. (See Exhibit "B" of the agreement for schedule.) The Commission recommended approval of the Development Agreement at the meeting of June 8, 2004. The Commission's staff reports are attached for Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover processing of this application.

### Attachments:

- 1. Precise Development Plan
- 2. Dev. Agreement Ordinance, Agreement
- 3. PC Staff Reports
- 4. Site Development Plan

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Agenda Item # 25
Prepared By:
Senior Planner
Approved By:
Planning Manager
Submitted By:

single

### ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY MORGAN HILL APPROVING  $\mathbf{A}$ AMENDMENT AND THE APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR PHASE 6 OF CAPRIANO/MADRONE CROSSING **DEVELOPMENT.** THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) (APPLICATION ZA-04-01: HALE-GLENROCK BUILDERS)

## THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- **SECTION 1**. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2**. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- **SECTION 3**. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- **SECTION 4.** The City Council finds that the proposed precise development plan is consistent with the criteria specified in Section 18.12.060 and Chapter 18.18 of the Morgan Hill Municipal Code.
- **SECTION 5**. The City Council hereby approves of a precise development plan for phase 6 only as contained in that certain series of documents date stamped June 1, 2004, on file in the Community Development Department, entitled "Glenrock Vesting Tentative Map and Site Development plan" prepared by MH Engineering. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- **SECTION 6.** The requirements and specifications of this ordinance repeal and replace the plans and requirement of Ordinance 1572.

**SECTION 7.** The following conditions shall be applied to all phases of the project:

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- 1. An open space buffer of 100 ft. shall be established between the residential uses and the railroad.
- Residential development shall be done in a manner which will minimize the need for sound walls. Such development methods would include units fronting or facing noise sources, frontage roads or the use of earth berms.
   The average and median lot size of the single family detached homes (excluding any condominium or duets) shall be 12,000 sq. ft. for the over all 59.95 acre single-family R-1 12,000 development area.
- 4. The maximum number of homes (excluding the 8.25 acres of multi family) shall be 165 units. The maximum number of condominium units with the entire project shall be 16. The maximum number single family detached units shall be 138. And the minimum number of duet units (located out side of the condominium area) shall be 8. The maximum number of BMR units on Saffron Dr. shall be 10. The maximum number of moderate rate units on Saffron Dr. shall be 4.
- 5. A minimum of 5 acres of park/open space area shall be provided within the overall development.
- 6. A minimum of 20,000 sq. ft. of the R-1 12,000 area shall be utilized as a nursery or preschool facility. The school facility shall be located on lots 1 & 2 of the May 31, 2002 site plan within application ZA 00-05. Elimination of this requirement shall not be considered by the Planning Commission and City Council until one year from the date of the issuance of the last building permit for the last residential unit within the entire RPD. The applicant must also show at that unsuccessful attempts have been made in obtaining a developer/operator for the childcare facility.
- 7. The single family lots within the R-2 area shall be a minimum of 9,000 sq. ft. The units proposed on the single family lots shall be review and approved by the Planning Commission and City Council as a future RPD amendment processed concurrent with the subdivision of the R-2 area.
- 8. All Below Market Rate BMR, units proposed within the multi-family area of the project shall be of similar product type and density.
- 9. All public streets shall meet City requirements with the exception of Saffron Dr. which can be completed at a 54 ft. wide right of way.
- 10. Fifteen percent of the units shall be single story.

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- 11. Modified detached units may only be considered for the 2004-05 allotments. All future BMR's, Moderate and R-2 units shall be attached.
- 12. All RDCS scoring category point totals shall not change.
- 13. Ten percent of the moderate rate units shall be located within the R-1 12,000 area.
- 14. Less than 25 percent of the units within the R-2 area can be detached. The 25 percent calculation shall include the 9000 sq. ft. lots.
- 15. No further subdivision of the 67-acre Capriano/Glenrock site will be processed or approved until all remaining R-1 12,000 & R-2 area is included within an approved precise development plan.
- 16. Any lot size modifications included with this phase (24 lot phase 6/2004-05 allotments) that causes the project to fall below the 12,000 sq. ft. lot average and median zoning requirement will be made up for in future phases.
- 17. In addition to the four moderate rate units provided in phase 6, three additional moderate rate units shall be accommodated within R-1 12,000 area of the project.

**SECTION 8.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 9.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of July 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

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	ATTEST:	APPROVED:
	Irma Torrez, City Clerk	Dennis Kennedy, Mayor
	& CERTIFIC	CATE OF THE CITY CLERK 03
New S	FORNIA, do hereby certify that the	Y CLERK OF THE CITY OF MORGAN HILL, foregoing is a true and correct copy of Ordinance No., of the City of Morgan Hill, California at their regular
	WITNESS MY HAND AND	D THE SEAL OF THE CITY OF MORGAN HILL.
	DATE:	IDMA TODDEZ C'A. ClI.
		IRMA TORREZ, City Clerk

### ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-01 FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)

## THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

**SECTION 1**. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 36 building allocations for fiscal year 2004-2005 to that certain project herein after described as follows:

Project Total Dwelling Units MP-02-03: TILTON-GLENROCK 36

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the Residential Development Agreement and Development Proposal approved by this ordinance are compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7**. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. , New Series Page 2

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of July 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>	
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>	
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>	
ABSENT:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	z, City Clerk	Dennis Kennedy, Mayor
	<b>∞</b> <u>CERTIFICATE C</u>	OF THE CITY CLERK &
CALIFORN New Series,	IIA, do hereby certify that the fore	RK OF THE CITY OF MORGAN HILD egoing is a true and correct copy of Ordinance No. the City of Morgan Hill, California at their regul
WIT	NESS MY HAND AND THE SE	AL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



### CITY COUNCIL STAFF REPORT

**MEETING DATE:** June 16, 2004

## DEVELOPMENT AGREEMENT AMENDMENT, DAA-00-01: CHRISTEPH – KOSICH

### **RECOMMENDED ACTION(S):**

- 1. Open/close Public Hearing
- 2. Waive the First and Second Reading of Ordinance
- 3. Introduce Ordinance

**EXECUTIVE SUMMARY:** The applicant is requesting approval to amend the development agreement for a single-family home to allow for a six-month Exception to Loss of Building Allotment (ELBA) and to eliminate a requirement for a five-ft pathway. The project site is located at 18100 Christeph Drive.

Agenda Item # 26
Prepared By:
Associate Planner
Approved By:
CDD Director
Submitted By:
City Manager

In April 1999, the applicant was awarded one building allotment under the Micro Measure P competition for FY 1999-2000. Due to a number of delays not the result of developer inaction, the project was awarded numerous extensions of time, extending the deadline to commence construction to June 30, 2004. The applicant is currently requesting six additional months to commence construction of the single unit. As noted in the applicant's Letter of Request, the legal property owner will not sign the final parcel map until site improvement issues are resolved. One issue has been resolved with County Fire regarding the widening of an access easement. However, a second issue regarding the elimination of a five-ft pathway requires Council approval.

The project was awarded one point under Measure P for providing a path from the existing home to a gazebo proposed on the newly created lot. The path was intended to benefit the property owner of the existing home. However, the property owners have requested that the pathway be eliminated due to privacy and security issues, and due to the fact that they have no intention to use the pathway. In lieu of providing the pathway, the applicant is willing to provide an alternate Measure P commitment valued at one point. By doing so, the applicant would not lose points under Measure P, and a comparable commitment would be provided to the City.

With respect to the extension of time request, under Section 18.78.125.G of the Municipal Code, the City may grant an ELBA if it finds that "the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing." The applicant has been working diligently to complete the project, however, has experienced delays not the result of developer inaction.

The Planning Commission reviewed the applicant's request on June 8, and by a vote of 6-0, recommended approval of the development agreement amendment. Due to Measure P requirements and scheduling constraints, it was necessary to schedule Council's review of the application one week after the Commission's review. Therefore, draft minutes from the Commission meeting are not available. Staff will provide a verbal report to the Council at the June 16 meeting. A copy of the June 8 Commission staff report is attached for the Council's reference, as well as an Ordinance to approve the development agreement amendment.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

### **ORDINANCE NO.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1617, N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-99-04: CHRISTEPH CT - KOSICH TO INCORPORATE A SIX-MONTH EXTENSION OF TIME FOR A SINGLE DWELLING UNIT AND TO ALLOW FOR AN ALTERNATIVE MEASURE P COMMITMENT IN LIEU OF A FIVE-FT PATHWAY (APN 764-32-024)/(DAA-00-01: CHRISTEPH - KOSICH)

## THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

<u>SECTION 1.</u> The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 99-27A, adopted April 27, 1999, has awarded an allotment to a certain project herein after described as follows:

Project MP-99-04: Christeph Ct - Kosich Total Dwelling Units
1 unit for FY 1999-2000

**SECTION 4.** References are hereby made to a certain Agreement on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

<u>SECTION 5.</u> The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 9.** EXCEPTION TO LOSS OF BUILDING ALLOTMENT. The project applicant has, in a timely manner, submitted necessary planning applications to pursue development. Delays in project processing have occurred due to excess processing time of the project final map and improvement plans, and due to the unwillingness of the property owners to sign the final parcel map. The delays are not a result of the developer's inaction, and therefore, the Council hereby grants a six-month Exception to Loss of Building Allotment for the single Measure P unit, extending the deadline to commence construction from June 30, 2004 to December 30, 2004.

**SECTION 10.** REPEAL PARAGRAPH 14(i)(ii). The Council hereby appeals Paragraph 14(i)(ii) of the development agreement as follows: "Pedestrian pathway along driveway leading from Lot 2 (existing home) to private common open space on Lot 1."

SECTION 11. ADD PARAGRAPH 14(0)(iii). The Council hereby approves the addition of Paragraph 14(0)(iii) to the development agreement as follows: "In lieu of providing a five-ft pathway, the applicant shall provide off-site pedestrian safety improvement(s) between the project and school site, subject to review and approval of the Public Works Department. The cost of the off-site improvement(s) shall be of equal or greater value than the previously proposed pathway."

**SECTION 12.** Exhibit B of the development agreement is amended to read as follows:

### **EXHIBIT "B"**

### FY 1999-2000 DEVELOPMENT SCHEDULE MP-99-04: CHRISTEPH CT - KOSICH

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed: March 22, 2000

II. FINAL MAP SUBMITTAL

Map, Improvements Agreement and Bonds: May 15, 2003

IV. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check: September 30, 2003

V. BUILDING PERMITS

Obtain Building Permits: September 30, 2004 March 31, 2004 Commence Construction: December 30, 2004 June 30, 2004

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner

Ordinance No. Page 3	, New Series	
must re-apply un development is st		ntlined in Section 18.78.090 of the Municipal Code if
was the City's fai	llure to grant a building permit for the projected delays in environmental reviews, p	City Council if the cause for the lack of commencement ect due to an emergency situation as defined in Section ermit delays not the result of developer inactions, or
improvements ha application for re	we been installed according to the plans a	commencement on at least <u>1</u> dwelling unit and lot nd specifications), the property owner may submit an ew building allocations for partially completed project time the reallocation is requested.
City of Morga meeting of sai	nn Hill held on the 16 <sup>th</sup> Day of Jun	the regular meeting of the City Council of the 2004, and was finally adopted at a regular 004, and said ordinance was duly passed and ote:
AYES: NOES: ABSTAIN: ABSENT:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez,	City Clerk	Dennis Kennedy, Mayor
	<b>EXECUTE OF T</b>	HE CITY CLERK ©
CALIFORNI	A, do hereby certify that the foregoi	OF THE CITY OF MORGAN HILL, ng is a true and correct copy of Ordinance No. City of Morgan Hill. California at their regular

L, lo. lar meeting held on the 7<sup>th</sup> Day of July 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



## CITY COUNCIL STAFF REPORT

MEETING DATE: June 16, 2004

## **DEVELOPMENT AGREEMENT AMENDMENT, DAA-03-10: COCHRANE – COYOTE ESTATES (Phases 9-10)**

### RECOMMENDED ACTION(S):

- 1. Open/close Public Hearing
- 2. Waive the First and Second Reading of Ordinance
- 3. Introduce Ordinance

**EXECUTIVE SUMMARY:** The applicant is requesting amendment of the approved development agreement to accommodate a revised development schedule created by the passage of Measure "C".

Agenda Item # 27	
Prepared By:	
Contract Planner	_
Approved By:	
Planning Manager	_
Submitted By:	
City Manager	_

The Development Agreement formalizes the commitments made during the Measure "C" and former Measure "P" processes and establishes the development schedule for the project. In accordance with established Council policy, all residential projects awarded building allotments through the Residential Development Control System (Measure P) must secure Council approval of a development agreement. The proposed amendment to the Development Agreement would accommodate the 44 additional building allotments, which were created during the 2004 Measure "P" process. The amended agreement would apply to all 69 lots, including the original 25 lots approved with the 2002 Measure "P" application and the 44 new allocations. The revised 2002 Measure "P" commitments and a development processing schedule have been included within the agreement. The amended Development Agreement provides for a total of seven (7) BMRs. The revised project development schedule is contained in Exhibit B of the agreement. Staff recommends approval of the development agreement amendment, as prepared.

The Planning Commission considered this application at the regular meeting of May 25<sup>th</sup> at which time the Commission voted 7-0 to recommend approval of the Development Agreement Amendment, as prepared. The Commission staff report, resolution and minutes are attached for Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City for the costs of processing this application.

### Attachments:

- 1. Council Ordinance
- 2. Amended Development Agreement
- 3. Planning Commission Staff Report, Minutes (05/25/04)
- 4. Planning Commission Resolution 04-53

### ORDINANCE NO. \_\_\_\_\_, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT, DA 03-10 FOR MP 02-14: COCHRANE – COYOTE ESTATES (APNS 728-35-008, 010; 728-36-001, 010)

## THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution Nos. 03-17a and 03-17b, adopted May 27, 2003, has awarded allotments to that certain project herein after described as follows:

<u>Project</u> <u>Total Dwelling Units</u> MP 02-14: Cochrane – Coyote Estates (Phases 8-10) 69 single-family homes

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

- **SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.
- **SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.
- **SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

City of Morgan Hill Ordinance No. , New Series Page 2

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of July 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:		COUNCIL MEMBERS:
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>	
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>	
ABSENT:	COUNCIL MEMBERS:	
ATTEST:		APPROVED:
Irma Torrez	, City Clerk	Dennis Kennedy, Mayor
	<b>EXECUTE</b> EXECUTE: SET 1	OF THE CITY CLERK &
I, IR	MA TORREZ, CITY CL	ERK OF THE CITY OF MORGAN HILI
CALIFORN	IA, do hereby certify that the fo	oregoing is a true and correct copy of Ordinance No.
		f the City of Morgan Hill, California at their regula
meeting held	on the 7 <sup>th</sup> Day of July 2004.	
WITN	NESS MY HAND AND THE S	SEAL OF THE CITY OF MORGAN HILL.
DATE:		
		IRMA TORREZ, City Clerk



# CITY COUNCIL STAFF REPORT MEETING DATE: (June 16, 2004)

## **Interim Use Permit UP: 04-07- Depot-Dayworker Center RECOMMENDED ACTION(S):**

- 1. Open/close Public Hearing
- 2. Adopt Resolution approving interim use permit for day worker center

**EXECUTIVE SUMMARY:** The applicant, the Roman Catholic Bishop of San Jose, is applying to defer eight on-site improvements for a temporary day worker center to be located at the northeast corner of Depot Street and E. Main Avenue. In February of 2004, the City Council approved an amendment to the code to allow non-profit agencies operating in the CC-R zoning district to apply for

Agenda Item # 28
Prepared By:
Associate Planner
Approved By:
Planning Manager
Submitted By:
City Manager

interim use permits to defer certain on-site improvements for an interim basis. An interim basis is defined in the Morgan Hill Municipal Code Section 18.04.232 as a temporary basis not to exceed three years, and which is never intended, at any time during occupancy, to be a permanent occupancy. Interim use permits are evaluated by the Planning Commission. The Commission then forwards its recommendation to the City Council for hearing and action. The City Council approves, approves with conditions, or denies the request.

In the attached statement of operation, the applicant intends on operating a day worker center for three years from June 2004 through June 2007 at a site located at the southeast corner of Depot Street and East Main Avenue. The lease, signed in June 2003, is in effect for three years and becomes a month to month lease thereafter. The center will be a hiring facility for dayworkers and potential employers. In addition, the center will provide worker training, English as a Second, and social services. The Planning Commission recommends the hours of operation be from 7 a.m. to 3:30 p.m. The applicant initially proposed to operate the center until noon each day. The extended hours will provide flexibility for the center operators to extend services beyond noon each day should it be necessary. The center is not required to stay open until 3:30 p.m.

The applicant is requesting the following items be deferred: On-site grading (parking lot only); sub-grade Parking Lot; 6" Class II aggregate base for the parking lot; curb and gutter preparation for the parking lot; curb and gutter concrete; electrical service and lot lighting; on-site underground utility requirements (electric and phone utilities); and on-site landscaping. Staff recommends that the on-site grading for the parking lot not be deferred and the applicant be required to meet the requirements of Title 24 for handicap accessibility. The Planning Commission concurred with staff's recommendation.

The Planning Commission recommended that the applicant provide a more detailed exit plan to the Council prior to issuance of the interim use permit. The applicant is currently working the update to the exit plan and staff will provide the updated exit plan to the Council prior to the June 16 City Council meeting. The Commission voted 4-1 with two Commissioner absent to recommend approval of the interim use permit. Commissioner Acevedo voted no and felt that a more complete exit plan addressing relocation of the use and restoration of the site should have been available for the Commission's review. For the Council's reference, a copy of the June 8 Commission staff report is attached.

**FISCAL IMPACT:** No budget adjustment required.

#### RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE OPERATION OF DAYWORKER CENTER AND DEFERRAL OF SEVEN ON-SITE IMPROVEMENT FOR A PERIOD OF TWO YEARS OR UNTIL THE LEASE EXPIRES BUT NOT TO EXCEED THREE YEARS TO BE LOCATED AT THE NORTHEAST CORNER OF DEPOT STREET AND E. MAIN AVENUE ON 0.68 ACRES IN THE CENTRAL COMMERCIAL-RESIDENTIAL (CC-R) ZONING DISTRICT. (APN 726-14-060)

**WHEREAS**, such request was considered by the City Council at their regular meeting of June 16, 2004, at which time the City Council approved (Interim)UP-04-07: Depot-Dayworker Center; and

**WHEREAS**, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

## NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

- **SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- **SECTION 2.** The project is categorically exempt from CEQA under Section 15303, New Construction.
- **SECTION 3.** The approved interim use permit has been found consistent with the criteria for interim use permit approval contained in Section 18.54.220 of the Zoning Code. The City Council finds:
  - 1. The site and building are suitable for the proposed use;
  - 2. The use would have no adverse impact on the surrounding properties, and on the CC-R district in general;
  - 3. The use would not have an adverse impact on the traffic circulation and planned capacity of the street;
  - 4. The use and design is compatible with the adjacent uses within the district and surroundings;
  - 5. The use will not adversely affect the peace, health, safety, moral or welfares of persons residing or working in the vicinity of the use;
  - 6. The use will not impair the utility or value of property of other persons located in the vicinity of the site;
  - 7. The use will be in conformance with the provisions of Chapter 8.40, hazardous materials, as existing or hereafter amended;
  - 8. The submitted exit plan meets the requirements of 18.54.210I of the Municipal Code;
  - 9. The deferral of the seven improvements will not present a serious threat to public health, safety, and welfare. The applicant shall be required to grade

City of Morgan Hill Resolution No. Page 2

- the parking lot to meet minimum draining standards and shall be required to meet Title 24 requirements for handicap accessibility;
- 10. The Council finds a public benefit exist to approve the use and defer the on-site improvements. The public benefits includes assisting dayworkers in seeking employment, gaining skills, and improving public safety by removing the solicitation of work out of the public right-of way.
- **SECTION 5.** The City Council hereby approves that the following on-site items be deferred for a period of two years or until the lease expires but not to exceed a total of three years:
  - 1. Sub-Grade for the Parking Lot
  - 2. 6" Class II aggregate for Parking Lot
  - 3. Curb and gutter preparation for the parking lot
  - 4. Concrete for the curb and gutter
  - 5. Electrical service and lighting for the parking lot
  - 6. On-site underground Utility Requirements (Electric and phone utilities)
  - 7. On-site landscaping
- **SECTION 6.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

### **\*** CERTIFICATION **\***

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

<b>DATE:</b>	
	IRMA TORREZ, City Clerk

### AFFIDAVIT

I, specified in this resolu	, applicant, hereby agree to accept and abide by the terms and conditions ation.
Bishop of San Jose, A	, Rev. MSGR. Michael J. Mitchell, on behalf of the Roman Catholic pplicant
Date	



### CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

# AN ORDINANCE AMENDING SECTIONS OF THE MUNICIPAL CODE REGARDING MASSAGE ESTABLISHMENTS

### **RECOMMENDED ACTIONS:**

- 1. Waive the first and second reading of the ordinance.
- 2. Introduce the ordinance by title only.
- 3. Adopt resolution governing fee changes.

### **EXECUTIVE SUMMARY:**

Agenda Item # 29

Prepared By:

Helene Leichter City Attorney

**Submitted By:** 

J. Edward Tewes City Manager

While the City of Morgan Hill recognizes massage as a valid rejuvenative therapy, it also recognizes that, due to aspects of personal bodily contact, massage activities raise issues of concern regarding health and safety issues. In addition, in the past the City has experienced several arrests for prostitution activity at massage establishments. As a result of these concerns, an ordinance governing massage establishments and services in Morgan Hill was adopted in 2001.

In recent months, the Police Department has received several citizen reports of possible illegal activities occurring at selected massage establishments in the City. The amendments to the Municipal Code attached hereto are an attempt to address these issues. Specifically, these amendments are:

- Changes to Section 5.32.040 are necessary to clarify that correspondence courses are insufficient to meet the educational requirements for massage practitioner licensing.
- Changes to Section 5.32.050(C) eliminating the practical examination are necessary because the City does not have the personnel or resources available to administer a practical exam, and has not found it necessary to have such an exam to date in the administration of the ordinance.
- Changes to Section 5.32.080(L) restricting the presence of birth control devices are necessary to discourage sexual activity from taking place on the premises of a massage establishment.
- Changes to Section 5.32.110(C) are necessary to restrict "out call" types of massage at venues other than just hotels, as these other venues may be places where prostitution occurs.
- Changes to Section 5.32.140(B) are necessary to clarify that the police may inspect massage premises for purposes of determining compliance with the ordinance.

Finally, the Police Department is proposing to amend the fees charged for massage establishment permits. Police staff estimates that the revised fees more accurately reflect staff time needed to process the permits, including continuing oversight.

### **FISCAL IMPACT:**

No budget adjustment is required.

T:\Memo\Staff Reports\Massage Ordinance Amendment 5-04.doc

### ORDINANCE NO. \_\_\_\_\_, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING REGULATION OF MASSAGE ESTABLISHMENTS AND PRACTITIONERS

WHEREAS, the City of Morgan Hill recognizes the practice of massage as a valid rejuvenative therapy; and,

WHEREAS, in recent months the City of Morgan Hill has experienced multiple arrests for prostitution at local massage establishments;

WHEREAS, due to the aspects of personal bodily contact, massage activities raise issues of concern regarding health and safety issues; and,

WHEREAS, the City of Morgan Hill wishes to provide for the orderly regulation of legitimate massage practitioners and establishments, and discourage prostitution and other unlawful activity which may be associated with a small minority of massage establishments; and,

WHEREAS, the City of Morgan Hill finds that establishment of minimal professional qualifications and operating standards for massage practitioners and establishments will encourage the operation of legitimate massage therapy in the community; and,

WHEREAS, based on these interests the City of Morgan Hill adopted Ordinance 1528 in 2001 regulating massage establishments; and,

WHEREAS, several provisions of the ordinance need amendment to clarify the educational requirements for massage practitioner licensing, and to discourage sexual activity from taking place during massage activities.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AND ENACT AS FOLLOWS:

<u>Section 1.</u> Section 5.32.040(A)(3) of Chapter 5.32 (Massage Establishments) of Title 5 (Business Taxes, Licenses and Regulations) is hereby added to the Municipal Code of the City of Morgan Hill to read as follows:

- 5.32.040 Educational requirements for massage practitioners, and holders of massage establishment permits, and managing employee permits.
- A. <u>General educational requirements.</u> Except as indicated below, all applicants for a massage establishment permit, managing employee permit or massage practitioner permit must meet either of the following educational standards in order to qualify for such permit: .

City of Morgan	n Hill
Ordinance	, New Series
Page - 2 -	

3. Schools offering correspondence courses not meeting required attendance shall not be deemed a recognized school.

## 5.32.050 Applications for massage establishment permits, managing employee permits, and massage practitioner permits.

- C. Payment of permit and examination fees. At the time of filing an application for a massage establishment permit, managing employee permit and/or massage practitioner permit, applicants shall pay massage establishment permit fees, managing employee permit fees, or massage practitioner's permit fees (as applicable) in an amount established by council resolution. All applicants except for persons exempted from the city's written and practical testing requirements as set forth below shall also pay examination fees at this time All. Applicants who will need the services of an interpreter for their written and/or practical examination shall also pay a fee to cover the cost of these services in the amount established by council resolution. All fees shall be non-refundable, except that the city shall refund examination fees if the application is denied before the applicant takes the written examination or is referred to take the practical examination. If the applicant initially fails either the written or practical examinations, or both, and wishes to retest pursuant to Section 5.32.050(D)(1), he/she shall pay the applicable examination fees again before taking the examination(s) for a second time. If an applicant for a massage establishment permit or managing employee permit is simultaneously applying for a massage practitioner permit because he/she intends to give massages at his/her business, the city shall not charge any additional fees related to the massage practitioner permit. All application fees shall be nonrefundable. However, the applicant must pay the examination fees, if an examination is required, in order to obtain the permit and certificate.
- D. <u>Processing of application and investigation; written and practical examinations.</u> Upon receipt of an application for a massage establishment permit, managing employee permit, massage practitioner permit, the police chief shall review the application and supplementary material. If it is clear from the face of the application and supplementary materials that the applicant is not qualified for a permit, the application may be denied without further investigation or testing. If it appears from the face of the application and supplementary material that the applicant may be eligible for the permit sought, the police chief shall verify the information submitted by the applicant and shall further investigate the qualifications of the applicant as follows:

3. Additional investigation. The police chief may conduct additional investigation in a manner authorized by law when necessary to determine whether the applicant meets the qualifications for a permit pursuant to this article, including testing as provided for below.

4. Written and practical examination.

- Testing requirements/adoption of procedures by police chief/provision of interpreter. The police chief may require the applicant to take and pass both a written test and a practical examination to demonstrate a basic knowledge of anatomy, physiology, hygiene and the theory, practice, history, ethics and methods of massage. The practical examination shall be administered on behalf of the City of Morgan Hill by a doctor or other licensed health professional who has knowledge of the techniques and practice of massage. The police chief shall establish procedures for the administration of the written and practical examinations in accordance with this article. Applicants who need an interpreter for the written and/or practical examination shall be provided with these services by the city at the applicant's expense. If the applicant fails either the written or practical examination, or both, he/she shall be permitted to retake the examination(s) once, after at least thirty (30) but no more than sixty (60) days have elapsed from the date of the first examination(s), so long as the applicant pays the applicable examination fees for a second time and complies with police department procedures. If the applicant fails either the written or practical examination, or both, after having an opportunity to take the examination(s) for a second time, the application shall be denied, and the applicant shall not be permitted to apply again for a massage establishment permit, home massage establishment permit, managing employee permit or massage practitioner certificate for a period of one (1) year.
- b. Exemptions from testing requirements. The following applicants shall be exempt from the testing requirements set forth in subsection a above:
  - 1. Massage practitioners who have completed at least five hundred (500) hours of education and training at a recognized school and maintain membership in a recognized association of massage practitioners.

## 5.32.080 Operating requirements for massage establishments and therapeutic massage establishments.

Unless otherwise specified herein, all massage establishments shall comply with the following operating requirements.

L. <u>Birth Control Devices Prohibited.</u> No birth control device or aid, including but not limited to condoms, shall be stored, kept or distributed on the premises of a massage establishment.

### 5.32.110 Outcall massage services.

. .

C. Special procedures for massage practitioners dispatched to *facilities which are open* 

City of Morgan Hill
Ordinance \_\_\_\_\_\_, New Series
Page - 4 -

to the public and/or available for rental or hire hotels or motels in city limits by outcall massage service. Massage practitioners may be dispatched to facilities which are open to the public and/or available for rental or hire hotels or motels within the city limits by any outcall massage service only by the direct arrangement of the facilities which are open to the public and/or available for rental or hire hotels or motels in conjunction with an incidental service regularly provided by the facilities which are open to the public and/or available for rental or hire hotels or motels and only if the massage service and massage practitioners have first obtained a permit(s) as required by this chapter. It shall be unlawful to perform massages at any facilities which are open to the public and/or available for rental or hire that does not have the appropriate business permit pursuant to this ordinance.

5.32.140 Suspension and revocation of massage establishment permits, managing employee permits, and massage practitioner permit.

. . .

- B. Grounds for revocation or suspension of massage practitioner permit. The police chief and/or his/her designee is authorized to inspect the premises of each massage business during operating hours for purpose of compliance with city ordinances and criminal laws. The police chief may suspend for a period of up to nine (9) months or revoke a massage practitioner permit according to the procedures set forth in subsection C, below, if there is probable cause to believe that: . . . .
- <u>Section 2.</u> Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

**Section 3. Effective Date; Posting**. This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of June 2004, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of July 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

City of Morgan Hill Ordinance, New Series Page - 5 -	
ATTEST:	APPROVED:
Irma Torrez, City Clerk	Dennis Kennedy, Mayor
& CERTIFICA	ATE OF THE CITY CLERK &
CALIFORNIA, do hereby certify that t	CLERK OF THE CITY OF MORGAN HILL, the foregoing is a true and correct copy of Ordinance No., cil of the City of Morgan Hill, California at their regular 4.
WITNESS MY HAND AND T	THE SEAL OF THE CITY OF MORGAN HILL.
DATE:	VENTA TOPPEZ CL. Cl.
	IRMA TORREZ, City Clerk

|--|

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REVISING FEES FOR MASSAGE ESTABLISHMENT LICENSES

WHEREAS, the City of Morgan Hill recognizes the practice of massage as a valid rejuvenative therapy; and,

WHEREAS, in recent months the City of Morgan Hill has experienced multiple arrests for prostitution at local massage establishments;

WHEREAS, due to the aspects of personal bodily contact, massage activities raise issues of concern regarding health and safety issues; and,

WHEREAS, the City of Morgan Hill wishes to provide for the orderly regulation of legitimate massage practitioners and establishments, and discourage prostitution and other unlawful activity which may be associated with a small minority of massage establishments; and,

WHEREAS, the City of Morgan Hill finds that establishment of minimal professional qualifications and operating standards for massage practitioners and establishments will encourage the operation of legitimate massage therapy in the community; and,

WHEREAS, based on these interests the City of Morgan Hill adopted Ordinance 1528 in 2001 regulating massage establishments and established a fee for licensing such establishments; and,

WHEREAS, the City's current fee for massage establishment licensing and oversight is insufficient to recoup estimated staff costs; and,

WHEREAS, a reasonable relationship exists between the costs of the massage establishment licensing program and the City's proposed increased fee.

**NOW, THEREFORE,** the City Council of the City of Morgan Hill, based upon all documents, statements and facts known to the City, does hereby resolve:

**SECTION 1.** <u>Fee Schedule Adoption</u>. Based upon the record before it and the findings set forth above, the City Council hereby adopts the massage establishment licensing fee as shown on the schedule of fees and charges attached hereto and incorporated herein as <u>Exhibit A</u>, so that the massage establishment licensing fee shown on <u>Exhibit A</u> is implemented. The City Council directs the City Manager to have appropriate City departments apply and collect said fee for identified services.

**SECTION 2.** Separate Fee For Each Process; Additional Fees and Refunds. The massage establishment fee set by this resolution is for each identified process or service. Additional fees shall be required for each additional process or service that is requested or required.

City of Morgan Hill	
Resolution No.	
Page -2 -	

**SECTION 3.** <u>Collection of Fees and Implementation Dates.</u> The City Council hereby orders that the massage establishment fee specified in <u>Exhibit A</u> be effective immediately, or as otherwise provided by law.

**SECTION 4.** <u>Interpretation.</u> This Resolution may be interpreted by the City Manager. Should there be a conflict in regards to the applicability of the fees, or the charges imposed thereunder, the City Manager is authorized to determine which fee, or combination thereof, should be applied.

**SECTION 5.** <u>Severability.</u> If any portion of this Resolution is declared invalid by a court of competent jurisdiction, then it is the intent of the City Council that all other portions of the Resolution shall be severed and remain in full force and effect.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: COUNCIL MEMBERS:

### **\*** CERTIFICATION **\***

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No., adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

Service No	Account Number	Service Center	Unit	Proposed Fee
73	Fund 010 Account 37299	Massage Establishment Permit	Application	\$209 initial \$105 renewal
74	Fund 010 Account 37299	Massage Managing Employee Permit	Application	\$139 initial \$69 renewal
75	Fund 010 Account 37299	Massage Practitioner Permit	Application	\$139 initial \$69 renewal



## CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

Prepared By:

Planning Manager

Agenda Item #30

### Approved/Submitted

City Manager

## REQUEST TO EXTEND PROVISIONS OF ORDINANCE NO. 1641

### **RECOMMENDED ACTION(S):**

Council Discretion

**EXECUTIVE SUMMARY:** Mr. Barton Hechtman, on behalf of Glenrock Builders is requesting that the City Council initiate proceedings to amend the City's Modified Setback Ordinance, to extend the ordinance provisions for another two years. The Modified Setback Ordinance (ORD No. 1641 attached)

was adopted in November 2003 to allow single-family attached (duet) units to be split into two detached units on separate lots with a minimum building separation of three feet and a maximum separation of six feet. The Ordinance was adopted at the request of several local home builders in response to the high cost of obtaining construction liability insurance for attached housing units. This ordinance allows the modified setback dwellings to be constructed for residential projects awarded a building allocation in FY 2003-04 and 2004-05. Under Section 15 of the attached ordinance, the modified setbacks may be extended for Measure P projects awarded a building allotment in FY 2005-06 and to FY 2006-07 units that are issued building permits by June 30, 2006. Section 20 of the Ordinance provides at the end of 12 months after enactment of the Ordinance, the Planning Commission shall hold hearings to review the progress and status of the modified setback dwellings. The Commission will then forward a recommendation to the City Council to either extend or terminate this Ordinance at the end of the two year term.

Staff finds the applicant's request to be premature given that the Planning Commission has not had the opportunity to review the ordinance after one year as required under Section 20 of the Ordinance. Additionally, most of the dwelling units approved under the Modified Setback Ordinance have yet to be constructed so the aesthetic impacts of these new closely space single-family homes have yet to be determined.

Mr. Hechtman is requesting a two year extension so that the ordinance provisions will apply to dwelling units awarded a building allocation in FY 2005-06. As stated previously, Section 15 of the existing allows the modified setback provision to apply to the FY 2005-06 allocations, subject to approval of the City Council. Therefore, extension of the current ordinance is not required.

Should the City Council wish to extend Ordinance 1641 at this time, it is recommended the cost for processing the extension be paid by one of the parties requesting the extension. The cost of processing the Zoning Text Amendment is \$4,612.

**FISCAL IMPACT:** No budget adjustment required at this time, however administrative costs would be incurred to process an early amendment to Zoning Code.



### CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

## **HEARING FOR EXEMPTION TO UNDERGROUNDING UTILITIES – 600 Tennant Avenue**

### **RECOMMENDED ACTIONS:**

- 1. Open and close Hearing.
- 2. Grant exemption to the requirement to underground utilities with payment in lieu fees for the proposed development at 600 Tennant Avenue.

Agenda Item # 31
Prepared By:
Assistant Engineer
Approved By:
Public Works Director
Submitted By:
City Manager

**EXECUTIVE SUMMARY:** A commercial development at 600 Tennant Avenue was conditioned to underground the overhead utility lines along Tennant Avenue. The development has 317 linear feet of frontage along Tennant Avenue. Pursuant to City Code Section 12.02.110 (attached), the developer is requesting exemption from the requirement to underground the overhead utility wires and request to pay an in-lieu fee instead. Staff supports this request on the basis that the installation of these improvements on such a small scale would not be cost effective and could be installed more efficiently as a portion of a larger installation of improvements at a later date.

**FISCAL IMPACT:** In-lieu fees totaling \$32,651 will be placed in the Undergrounding Fund #350-37648 if this exemption is approved.



## CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

# SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW-MURPHY SPRINGS LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT

**RECOMMENDED ACTION:** 1) Approve the attached nine Resolutions setting the annual Public Hearing for the Fiscal Year 2004-2005 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District.

2) Direct the City Clerk to notice a copy of the resolutions as noted.

EXECUTIVE SUMMARY: The Fox Hollow-Murphy Springs Assessment
District was created to pay for the maintenance of the parks and common area
landscaping in new neighborhoods benefiting from the open space. Per
government code sections 22623 to 22631, an engineer's report is required to set the annual assessments
in the lighting and landscaping district.

Attached is the required preliminary engineer's report and resolutions. Prior to the public hearing date, the City Council is required to declare their intent to levy assessments. The public hearing date is set for the City Council meeting of July 7, 2004.

The district consists of 20 residential sub-areas, affecting a total of 755 lots. Proposed changes in the annual assessments for each sub-area are shown on Exhibit A. In summary, it is proposed the assessment rate increase in 3 sub-areas, and remain unchanged in 17. None of the proposed assessment rate increases exceed the maximum assessment rate approved at the time of the sub-areas annexation into the district and therefore, balloting procedures as described in Proposition 218 are not required. The City is not required by law to notify property owners of proposed changes in assessment rates prior to the public hearing date, however, staff will notify the 141 property owners in the 3 sub-areas where an increase in their assessment rate is proposed.

The changes in assessment rates as proposed are necessary to adjust the fund balance or deficit in each sub-area. Staff is managing the District to create or maintain approximately a \$2,000 positive fund balance for each individual sub-area. This fund balance will then serve as a contingency for maintenance costs for any given fiscal year. As staff anticipates one-time expenses requiring more than the \$2,000 contingency, an increase in assessment rate will be proposed.

The nine resolutions, in summary, are to 1) Initiate the proceedings for the levy of the assessments in the district, 2) Provide preliminary approval of the engineer's report and the proposed assessment levy and 3) Declare the City Council's intention to levy the assessments in the district and to set the Public Hearing for July 7, 2004 at 7:30 p.m. These resolutions comply with the Landscaping and Lighting Act of 1972.

**FISCAL IMPACT:** The cost for preparation of this staff report and the engineer's report will be paid for by the Assessment District. It is anticipated that the District will generate \$137,413 in gross revenues for the Fiscal Year 2004-05 and will offset the costs of maintenance provided.

RESOLUTION NO.	

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (excluding the Conte Gardens and Sandalwood Estates Zones), (hereafter referred to as the "District"), pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

**WHEREAS**, the City Council has retained NBS for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

<u>Section 1</u> Annual Levy Report: The City Council hereby orders NBS to prepare and file with the City Clerk the Annual Engineer's Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2004 and ending June 30, 2005 in accordance with *Chapter 3, Section 22622* of the Act.

<u>Section 2</u> Proposed improvements and any substantial changes in existing improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Annual Engineer's Report describes all new improvements or substantial changes in existing improvements.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

#### **<b>♥** CERTIFICATION **♥**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

#### **RESOLUTION NO.**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (referring only to the Conte Gardens Zone), (hereafter referred to as the "District"), pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and.

**WHEREAS**, the City Council has retained NBS for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

<u>Section 1</u> <u>Annual Report:</u> The City Council hereby orders NBS to prepare and file with the City Clerk the Annual Engineer's Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2004 and ending June 30, 2005 in accordance with *Chapter 3, Section 22622* of the Act.

<u>Section 2</u> Proposed improvements and any substantial changes in existing improvements: The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Annual Engineer's Report describes all new improvements or substantial changes in existing improvements.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

#### **♥ CERTIFICATION ♥**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do he	reby certify
that the foregoing is a true and correct copy of Resolution No, adopted by the City Council at	: a Regular
Meeting held on June 16, 2004.	
WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.	
DATE.	

IRMA TORREZ, City Clerk

RESOLUTION NO		
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2004/05		
The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:		
WHEREAS, the City Council has by previous Resolutions formed and levied annual assessments for the Fox Hollow Murphy Springs Landscape Assessment District (referring only to the Sandalwood Estates Zone), (hereafter referred to as the "District"), pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,		
<b>WHEREAS</b> , the City Council has retained NBS for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,		
NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, PURSUANT TO <i>CHAPTER 3, SECTION 22624</i> OF THE ACT, AS FOLLOWS:		
<u>Section 1</u> Annual Report: The City Council hereby orders NBS to prepare and file with the City Clerk the Annual Engineer's Report concerning the levy and collection of assessments for the District for the fiscal year commencing July 1, 2004 and ending June 30, 2005 in accordance with <i>Chapter 3, Section 22622</i> of the Act.		
<u>Section 2</u> <u>Proposed improvements and any substantial changes in existing improvements:</u> The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition. The Annual Engineer's Report describes all new improvements or substantial changes in existing improvements.		
<b>PASSED AND ADOPTED</b> by the City Council of Morgan Hill at a Regular Meeting held on the 16 <sup>th</sup> Day of June, 2004 by the following vote.		
AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:		
€ CERTIFICATION €		
I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No, adopted by the City Council at a Regular Meeting held on June 16, 2004.		

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

IRMA TORREZ, City Clerk

DATE: \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ANNUAL ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Engineer's Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (excluding the Conte Gardens and Sandalwood Estates Zones), (hereafter referred to as the "District"); and,

**WHEREAS**, there has now been presented to this City Council the Report as required by *Chapter 1, Article 4, Section 22566* of said Act; and,

**WHEREAS**, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AS FOLLOWS:

**Section 1** That the above recitals are true and correct.

**Section 2** That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- c. The District Roll containing the Fiscal Year 2004/05 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

<u>Section 3</u> That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

### **<b>♥** CERTIFICATION **♥**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_\_, adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ANNUAL ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Engineer's Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (referring only to the Conte Gardens Zone), (hereafter referred to as the "District"); and,

**WHEREAS**, there has now been presented to this City Council the Report as required by *Chapter 1, Article 4, Section 22566* of said Act; and,

**WHEREAS**, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AS FOLLOWS:

**Section 1** That the above recitals are true and correct.

**Section 2** That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- The District Roll containing the Fiscal Year 2004/05 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

<u>Section 3</u> That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

### **<b>♥** CERTIFICATION **♥**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_\_, adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ City Clark

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ANNUAL ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE SANDALWOOD ESTATES ZONE), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") did by previous Resolution, order the preparation of an Annual Engineer's Report (hereafter referred to as the "Report") for the District known and designated as the Fox Hollow/Murphy Springs Landscape Assessment District (referring only to the Sandalwood Estates Zone), (hereafter referred to as the "District"); and,

**WHEREAS**, there has now been presented to this City Council the Report as required by *Chapter 1. Article 4. Section 22566* of said Act; and.

**WHEREAS**, this City Council has carefully examined and reviewed the Report as presented and is preliminarily satisfied with the District, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, AS FOLLOWS:

**Section 1** That the above recitals are true and correct.

Section 2 That the "Report" as presented, consisting of the following:

- a. A Description of Improvements.
- b. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
- The District Roll containing the Fiscal Year 2004/05 Levy for each Assessor Parcel within the District.

is hereby approved on a preliminary basis, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

<u>Section 3</u> That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Report.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

#### **<b>②** CERTIFICATION **③**

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_\_, adopted by the City Council at a Regular Meeting held on June 16, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk

<b>RESOLUTION NO.</b>	

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING ITS INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (EXCLUDING THE CONTE GARDENS AND SANDALWOOD ESTATES ZONES), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (excluding the Conte Gardens and Sandalwood Estates Zones), (hereafter referred to as the "District"), and initiated proceedings for Fiscal Year 2004/05, pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

**WHEREAS**, the City Council has retained NBS for the purpose of assisting with the Annual Levy of the District, and to prepare and file a report with the City Clerk in accordance with the Act; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, PURSUANT TO CHAPTER 3, SECTION 22624 OF THE ACT, AS FOLLOWS:

<u>Section 1 Intention:</u> The City Council hereby declares that it is its intention to seek the Annual Levy of the District pursuant to the Act, over and including the land within the District boundary, and to levy and collect assessments on all such land to pay the annual costs of the improvements. The City Council finds that the public's best interest requires such levy and collection.

<u>Section 2</u> <u>District Boundaries:</u> The boundaries of the District are described as the boundaries previously defined in the formation documents of the original District, within the boundaries of the City of Morgan Hill, within the County of Santa Clara, State of California.

<u>Section 3</u> <u>Description of Improvements:</u> The improvements within the District may include, but are not limited to: turf, shrubs, plants and trees, landscaping, irrigation and drainage systems, graffiti removal, and associated appurtenances within the public right-of-ways or specific easements. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

<u>Section 4</u> <u>Proposed Assessment Amounts:</u> For Fiscal Year 2004/05, the proposed assessments are outlined in the Annual Engineer's Report which details any changes or increases in the annual assessment.

<u>Section 5</u> <u>Public Hearing(s):</u> The City Council hereby declares its intention to conduct a Public Hearing annually concerning the levy of assessments for the District in accordance with *Chapter 3, Section 22626* of the Act.

<u>Section 6 Notice:</u> The City shall give notice of the time and place of the Public Hearing to all property owners within the District by causing the publishing of this Resolution once in the local newspaper not less than ten (10) days before the date of the Public Hearing, and by posting a copy of this resolution on the official bulletin board customarily used by the City Council for the posting of notices. Any interested person may file a written protest with the City Clerk prior to the conclusion of the Public Hearing, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and a protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

City of Morgan Hill Resolution No. Page 2

<u>Section 7 Notice of Public Hearing:</u> Notice is hereby given that a Public Hearing on these matters will be held by the City Council on <u>Wednesday July 7, 2004 at 7:30 p.m.</u> or as soon thereafter as feasible in the City Council Chambers, located at 17555 Peak Avenue, Morgan Hill.

<u>Section 8</u> The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

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certify that the foregoing is a true and correct copy of Resolution No	_, adopted by the City Coun	cil at
a Regular Meeting held on June 16, 2004.		

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

D. 4. T. F.	
DATE:	
	IRMA TORREZ, City Clerk

<b>RESOLUTION NO.</b>	

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING ITS INTENTION FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT, (REFERRING ONLY TO THE CONTE GARDENS ZONE), FISCAL YEAR 2004/2005

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (referring only to the Conte Gardens Zone), (hereafter referred to as the "District"), and initiated proceedings for Fiscal Year 2004/05, pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

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<u>Section 4</u> <u>Proposed Assessment Amounts:</u> For Fiscal Year 2004/05, the proposed assessments are outlined in the Annual Engineer's Report which details any changes or increases in the annual assessment.

<u>Section 5 Public Hearing(s):</u> The City Council hereby declares its intention to conduct a Public Hearing annually concerning the levy of assessments for the District in accordance with *Chapter 3, Section 22626* of the Act.

<u>Section 6 Notice:</u> The City shall give notice of the time and place of the Public Hearing to all property owners within the District by causing the publishing of this Resolution once in the local newspaper not less than ten (10) days before the date of the Public Hearing, and by posting a copy of this resolution on the official bulletin board customarily used by the City Council for the posting of notices. Any interested person may file a written protest with the City Clerk prior to the conclusion of the Public Hearing, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and a protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

City of Morgan Hill Resolution No. Page 2

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<u>Section 8</u> The City Clerk is hereby authorized and directed to give notice of such hearing as provided by law.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

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DATE:	
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The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council has by previous Resolutions formed the Fox Hollow/Murphy Springs Landscape Assessment District (referring only to the Sandalwood Estates Zone), (hereafter referred to as the "District"), and initiated proceedings for Fiscal Year 2004/05, pursuant to the provisions of the Landscape and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (hereafter referred to as the "Act") that provides for the levy and collection of assessments by the County of Santa Clara for the City of Morgan Hill to pay the maintenance and services of all improvements and facilities related thereto; and,

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City of Morgan Hill Resolution No. Page 2

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**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of June, 2004 by the following vote.

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS:

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I, IRMA TORREZ, CITY CLERK OF THE C	CITY OF MORGAN HILL, CALIFORNIA, d	lo hereby
certify that the foregoing is a true and correct copy of	f Resolution No, adopted by the City (	Council at
a Regular Meeting held on June 16, 2004.		

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:	
	IRMA TORREZ, City Clerk



### CITY COUNCIL STAFF REPORT **MEETING DATE:** June 16, 2004

### Prepared/Approved

Agenda Item # 33

By:

Council Services & **Records Manager** 

**Submitted By:** 

City Manager

#### REVENUE INCREASE REVIEW

RECOMMENDED ACTION: CONSIDER FINANCE & AUDIT COMMITTEE REPORT AND PROVIDE DIRECTION TO **STAFF** 

#### **EXECUTIVE SUMMARY:**

At its June 2, 2004 meeting, the Council received a report from City Treasurer Mike Roorda where he presented the Finance & Audit Committee's report on possible sources of increased revenue. The Council provided initial comments relating to possible revenue increase(s). However, due to the lateness in the hour, the Council directed that staff agendize this item for the Council's June 16 meeting for further discussion. Staff has attached the June 2, 2004 staff report for Council reference.

Some of the Council highlights from the June 2, 2004 Council meeting include the following:

- ➤ A 911 dispatch service fee could generate approximately \$800,000. However, concern was raised that such a fee may be challenged and may impact lower income citizens
- ➤ A sales tax increase could generate \$1.1 million in additional revenue
- The City should consider additional revenue sources in order to enhance City services (e.g., safety services -- review Fire Master Plan recommendations)
- The issue of timing needs to be discussed (e.g., placing a measure on the November 2, 2004 ballot)
- > Important to discuss a stable and reliable funding source instead of an immediate funding source
- > Single revenue source versus multi revenue sources
- Discussion whether the City needs to achieve full cost recover on some City services while not in others
- > Identify inhibitors to economic development. Can the City count on economic development to help raise revenues to the City?
- Willingness to pay a higher tax in order to avoid impacts associated with "big box" stores

Staff requests Council direction.

**FISCAL IMPACT:** See Fiscal Impact analysis contained in June 2, 2004 City Council staff report.



# CITY COUNCIL STAFF REPORT MEETING DATE: June 16, 2004

#### **Coyote Valley Specific Plan**

#### **RECOMMENDED ACTION:**

- Consider recent Workshop and Task Force actions regarding development of Specific Plan and formulate City position regarding same.
- 2. Discuss/refine, as necessary, the list of mutual concerns regarding Coyote Valley development
- 3. Review workplan for continued involvement in CVSP process and appropriate \$15,000 from the current unappropriated General Fund balance, if desired.

Agenda Item # 34
Prepared By:
Contract Planner
Approved By:
Planning Manager
Submitted By:
City Manager

**EXECUTIVE SUMMARY:** The purpose of this agenda item is threefold: first is to update the Council on the status of development of the Coyote Valley Specific Plan (CVSP); second is to allow the Council the opportunity to further review and refine the common interests regarding Coyote Valley development which were identified at the meeting with other South Valley agencies; and third, is to consider funding for continuation of the current level of involvement in the CVSP process.

The results of the June 12<sup>th</sup> CVSP workshop and June 14<sup>th</sup> Task Force meeting were unknown at the time of preparation of this memo and will be presented at the Council meeting.

At its May 26<sup>th</sup> meeting, the Council requested the common interests identified by South County agencies regarding Coyote Valley development be agendized to provide the opportunity to further refine the interests, if necessary. That list, which addresses such items as traffic congestion, housing and school impacts and greenbelt preservation, is attached to this memo, as Attachment 2.

Participation in the CVSP process at the current level was not anticipated during development of the FY 04-05 budget. Attached to this memo, as Attachment 3, is a workplan and estimated cost for continuation of participation in the process at the current level. The workplan includes participation at all San Jose workshops, Task Force and Technical Advisory Committee meetings. It also includes periodic status reports to the City Council regarding progress of the CVSP with recommendations for City action and organizing and staffing a multi-agency South County committee with interest in Coyote Valley development.

**FISCAL IMPACT:** Should the Council wish to continue participation in the CVSP process at the current level, \$15,000 should be appropriated from the current unappropriated General Fund balance to cover those associated costs, as shown on Attachment 1. Otherwise, no budget adjustment is necessary.

### **Coyote Valley Specific Plan South County Interests and Concerns**

On May 19, 2004, representatives of the Cities of Morgan Hill and Gilroy, Santa Clara County, the Morgan Hill Unified School District, Gavilan Community College, the Open Space Authority, and the San Martin Neighborhood Association met to discuss the Coyote Valley Specific Plan. At that meeting, the following interests and concerns were identified by these organizations regarding development of this area.

<u>Traffic and Transportation:</u> Development of Coyote Valley is anticipated to have significant traffic impacts on South County. It is recommended that:

- 1. Sufficient housing be allowed in the Valley to accommodate all new jobs created.
- 2. Housing be allowed concurrently with or in advance of job creation.
- 3. Traffic modeling for the Specific Plan use realistic assumptions for trip distribution.
- 4. Transportation planning for development of Coyote Valley be closely coordinated with transportation plans of the County, Morgan Hill and Gilroy, with proper mitigation to ensure the system works efficiently and congestion is not worsened.
- 5. Impacts to the condition of existing County roads be identified and a method for mitigating that impact over time should be implemented.
- 6. Busing of school children be properly accommodated in development of the overall circulation system.

<u>Housing:</u> Development of an insufficient supply of housing for the number of jobs being created in Coyote Valley will exacerbate housing costs in South County. It is recommended that:

- 1. Sufficient housing be provided in the Valley to accommodate all new jobs created.
- 2. The housing be planned at a price which is affordable to the persons expected to be employed in the Valley.
- 3. Housing be allowed concurrently with or in advance of job creation.

**Schools:** Housing development in Coyote Valley will require development of new schools. It is recommended that:

- 1. The Specific Plan identify and reserve appropriately sized school sites for the needs of the children expected to reside in the area.
- 2. The Specific Plan include a financing plan to ensure school facilities are available when needed by the residents of the area.

<u>Public Facilities:</u> Housing development in Coyote Valley will have a significant impact on existing facilities. It is recommended that:

- 1. The impact on existing roads in the unincorporated portions of the Valley be evaluated and a plan developed and implemented for maintenance of those streets.
- 2. The impact on existing County parks in the area be evaluated and a plan for maintenance of those parks developed and implemented.

**Greenbelt:** Establishment of a greenbelt separating San Jose from Morgan Hill is a very positive aspect of the Coyote Valley Specific Plan. To ensure its preservation, it is recommended that:

1. A vision for the greenbelt be defined and a strategy developed and implemented to ensure that vision is realized.

<u>Air Quality:</u> Given the direction of prevailing winds, air quality is expected to deteriorate in South County with development of Coyote Valley. It is recommended that:

1. Air quality be evaluated and a plan adopted which will ensure that further degradation will not occur.

<u>Communications:</u> Once developed, Coyote Valley will, in essence, become the third city in southern Santa Clara County. Its development will have a significant effect upon South County and will be significantly effected by development elsewhere in South County. To ensure its development is well-coordinated with that of other areas of South County, meaningful coordination between agencies is critical. It is recommended that:

1. A process be established to allow for meaningful input to the Specific Plan process and coordination of plans between San Jose and South County agencies.

#### COYOTE VALLEY SPECIFIC PLAN MORGAN HILL PARTICIPATION

#### BACKGROUND

Beginning last year, the City has been involved to a limited extent in the Coyote Valley Specific Plan (CVSP) process. A member of the Planning Commission has been monitoring the Task Force meetings and a member of Planning Division staff has been attending Technical Advisory Committee (TAC) meetings. In April of this year, the Council directed that the City's involvement in that process be increased. A meeting of South County agencies has been held to identify common interests regarding Coyote Valley development and at least one additional meeting has been scheduled. Contract staff has been directed to attend all Workshops, Task Force and TAC meetings and represent the City's interests at those meetings. The Mayor has met with San Jose Mayor Gonzales regarding the CVSP and a second meeting is scheduled.

This increased involvement in the CVSP process is showing positive results. Supervisor Gage and Task Force member Danielson have both expressed a willingness to represent the views of South County agencies to the Task Force. As mentioned above, Mayor Gonzales has agreed to meet with South County agencies to hear our concerns. In addition, San Jose staff has agreed to address certain issues raised at the workshops and TAC meetings.

The level of involvement which has occurred since April, however, was not anticipated or included within the 04-05 fiscal year budget. The following tasks represent a continuation of the current level of effort and involvement in the CVSP process.

#### SAN JOSE PROCESSES

#### Process for Selection of a Preferred Alternative Plan

- Time frame: June September, 2004 (at minimum)
- Review all documents prepared by San Jose for CVSP process
- Actively represent Morgan Hill interests at all meetings
  - A minimum of 2 additional Community Workshops, 3 additional Task Force and Technical Advisory Committee (TAC) meetings and 1 San Jose City Council meeting are planned

#### **Process for Development of Implementing Ordinances and EIR**

- Time frame: October, 2004 December, 2005
- Review and provide comments for Morgan Hill consideration regarding draft Specific Plan (w/i FY 04-05) and Zoning ordinances (w/i FY 05-06)
- EIR: Review and provide comments for Morgan Hill consideration regarding the Notice of Intent, Notice of Preparation (w/i FY 04-05), Draft and Final EIR (w/i FY 05-06)
- Present Morgan Hill position regarding implementing ordinances and EIR at San Jose meetings regarding these documents

#### MORGAN HILL PROCESSES

#### **City Council**

- Provide monthly updates of CVSP progress towards selection of preferred alternative land use plan including recommendations for City position regarding Task Force and San Jose City Council actions.
- Provide reports and recommendations, when appropriate, regarding implementing ordinances and EIR

#### **South County Agencies**

- Assist in coordination of meetings between agencies
- Serve as primary staff for meetings including:
  - o Preparation of reports
  - o Presentation of information
  - o Summary minutes
- Prepare correspondence between MH and other agencies

#### ANTICIPATED COSTS

Costs associated with these activities are limited to staffing and are assumed to be approximately 200 to 250 hours or a maximum of \$15,000 for fiscal year 04-05.



# CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 16, 2004

TITLE: ADOPTION OF FISCAL YEAR 2004/05 BUDGET

#### **RECOMMENDED ACTION(S):**

- 1) Approve Resolution of the City of Morgan Hill Adopting the Fiscal Year 2004/05 Annual City Budget and Adopting Appropriations Limit for Fiscal Year 2004/05
- 2) Approve Resolution of the Redevelopment Agency of the City of Morgan Hill Adopting the Fiscal Year 2004/05 Annual Agency Budget
- 3) Approve the Capital Improvement Plan

Agenda Item # 35
Prepared By:
<b>Budget Manager</b>
Approved By:
<b>Finance Director</b>
Submitted By:
City Manager

#### **EXECUTIVE SUMMARY:**

Following the May 19, 2004 City Council Meeting at which the Proposed Fiscal Year 2004/05 Budget was introduced, the City Council and Agency Board held a Budget and Capital Improvement Program Workshop on May 21, 2004 and a Public Hearing on June 2, 2004. At the Public Hearing staff presented an additional \$100,000 reduction in General Fund appropriations due to the proposed State revenue shifts of local taxes to the State.

Approval of the attached two Resolutions will adopt the City and Redevelopment Agency budgets and the Fiscal Year 2004/05 Appropriations Limit.

As requested by the State Department of Housing & Community Development, the Redevelopment Agency has included, within the RDA resolution, a finding that planning and administrative costs attributable to the Housing 20% Set-Aside fund are necessary and proportionate to amounts proposed for actual housing activities during the fiscal year. Each year the Agency approves the proposed use of Low to Moderate Income Housing Funds for such planning and administrative activities as part of this annual budget approval process, which includes a series of public meetings and workshops.

#### **FISCAL IMPACT:**

Sufficient resources are available to finance the proposed budget. For Fiscal Year 2004/05, the General Fund budget, as amended, reflects a \$1,925,355 excess of appropriations over estimated revenues, which is proposed to be financed by undesignated fund balance. Exhibit A provides a fund balance summary of all operating and capital budgets.

## Combined Statement of Revenues, Expenditures and Changes in Fund Balance (FY 04/05)

	General Fund	Special Revenue	Capital Project	Debt Service	Enterprise	Internal Services	Agency	ALL FUNDS
SOURCES OF FUNDS			,					
Property Tax	2,454,410	130,000	22,017,627	310,869	-	-	2,511,901	27,424,807
Other Taxes	7,016,010	333,000	-	-	-	-	-	7,349,010
Licenses & Permits	201,720	-	-	-	-	-	-	201,720
Fines & Penalties	47,000	-	-	-	-	-	-	47,000
Use of Money & Property	819,261	107,525	592,047	11,797	6,323,578	93,965	57,064	8,005,237
Other Agencies	2,348,176	950,130	-	-	-	-	-	3,298,306
Charges for Current Svs.	3,536,276	2,793,869	1,916,800	-	11,618,875	4,947,882	-	24,813,702
Other Revenues	14,000	73,900	1,358,000	-	1,377,000	-	-	2,822,900
Transfers In	403,100	750,000	-	-	2,500,000	49,025	-	3,702,125
TOTAL SOURCES	16,839,953	5,138,424	25,884,474	322,666	21,819,453	5,090,872	2,568,965	77,664,807
USES OF FUNDS								
Salaries	10,357,057	2,568,973	1,537,910	-	2,912,738	1,392,355	-	18,769,033
Supplies & Services	6,376,593	1,890,343	323,970	1,600	7,306,156	2,648,321	14,677	18,561,660
Capital Outlay	41,400	11,000	2,510	-	356,300	400,667	-	811,877
Debt Services	79,000	-	83,000	216,443	2,104,955	970	2,422,365	4,906,733
Internal Service	1,812,233	929,860	600,897	15,718	853,130	165,007	31,436	4,408,281
Transfers Out	99,025	338,100	125,000	-	3,140,000	-	-	3,702,125
Project Expenditure	-	1,350,187	25,769,888	-	5,483,000	-	-	32,603,075
TOTAL USES	18,765,308	7,088,463	28,443,175	233,761	22,156,279	4,607,320	2,468,478	83,762,784
							Т	
SOURCE/USE VARIANCE	(1,925,355)	(1,950,039)	(2,558,701)	88,905	(336,826)	483,552	100,487	(6,097,977)
(PROJ) BAL ON 7/1/04	9,821,672	5,552,952	26,237,044	304,024	17,075,382	5,196,353	2,171,847	66,359,274
(PROJ) BAL ON 6/30/05	7,896,317	3,602,913	23,678,343	392,929	16,738,556	5,679,905	2,272,334	60,261,297

### Fund Balance Projection (FY 03/04)

	03/04 Fund Bal	03/04 Projected	03/04 Projected	03/04 Projected	03/04 Projected	03/04 Projected Bal
Fund Description	07/01/03	Revenue	Transfer In	Transfer Out	Expenditure	06/30/04
General Fund 010 General Fund Undesignated General Fund Designated Subtotal	7,350,974 3,396,767 <b>10,747,741</b>	14,486,287 - <b>14,486,287</b>	777,058 - <b>777,058</b>	95,250 - <b>95,250</b>	16,094,164 - <b>16,094,164</b>	6,200,100 3,621,572 <b>9,821,672</b>
Special Revenue Funds 202 Street Maintenance 204/205 Public Safety Trust 206 Community Development 207 General Plan 210 Community Centers 215 HCD 216 HCD Rehab 220 Museum 225 Asset Seizure 229 Light & Landscape 232 Environmental Programs 234 Mobile Home Park Rent 235 Senior Housing Trust 236 Housing Mitigation 240 Employee Assistance	1,683,131 485,351 1,551,729 190,845 360,157 9,578 177,963 1,273 38,096 33,766 613,697 9,808 255,610 1,043,306 8,920	1,158,638 108,642 2,661,111 78,282 3,840 299,264 8,263 10 8,595 130,260 396,756 - 3,966 31,366 30,811	725,000 - 55,486 - - - - - 350,000 - - 60,000	- 273,000 - - 265,000 - - - 100,000 - -	1,928,991 582 3,054,881 156,814 308,842 74,307 1,283 - 154,005 328,202 339,661 - 15,000 20,000	1,637,778 320,411 1,213,445 112,313 98,997 - 111,919 - 46,691 10,021 582,251 20,147 259,576 1,059,672 79,731
Subtotal  Capital Project Funds 301 Park Development 302 Park Maintenance 303 Local Drainage 304 Local Drainage/Non AB 1600 305 Off Street Parking 306 Open Space 309 Traffic Impact 311 Police Impact 311 Police Impact 313 Fire Impact 317 RDA 327/328 Housing/Rehab Loan 340 MH Bus Ranch AD CIP 342 MH Bus Ranch II AD CIP 344 Public Fac/Non AB 1600 347 Public Facilities Impact 348 Library Impact 350 Undergrounding 360 Community Center Impact Subtotal	3,191,630 2,909,243 2,910,954 3,276,515 4,020 458,487 2,826,115 1,183,045 2,603,859 18,569,683 6,105,908 48,290 54,232 1,332,714 665,032 414,456 1,257,217	1,252,098 299,897 246,357 140,618 38 158,101 1,452,781 103,750 218,879 14,892,337 4,638,455 754 846 8,257,427 228,926 66,937 79,573 9,919 32,047,693	1,190,486  562,500 1,200,000 335,875 2,098,375	638,000  - 200,000 - 30,000 4,058 - 1,200,000 - 48,177 375,000 - 791,684 2,648,919	6,382,568  763,132 - 261,893 188,868 - 1,396,777 26,645 551,545 33,505,198 6,646,714 - 9,387,000 153,071 225 190,437 - 53,071,505	5,552,952  3,680,596 3,009,140 2,895,418 3,198,265  616,588 2,882,119 60,150 2,271,193 471,145 3,722,649 49,044 55,078 611,457 1,076,762 481,168 1,146,353 9,919 26,237,044
Debt Service Funds 536 Encino Hills AD 539 MH Business Park AD 542 Sutter Business Park AD 545 Cochrane Bus Park AD 551 Joleen Way AD Subtotal	68,027 11,867 24,910 193,468 11,908 <b>310,180</b>	1,060 184 389 194,170 35,698 <b>231,501</b>	-	- - - - -	196,517 41,140 <b>237,657</b>	69,087 12,051 25,299 191,121 6,466 304,024

## Fund Balance Projection (FY 04/05)

		04/05	04/05	04/05	04/05	04/05	04/05
	5 15 tv	Fund Bal	Projected	Projected	Projected	Projected	Projected Bal
	Fund Description	07/01/04	Revenue	Transfer In	Transfer Out	Expenditure	06/30/05
	eral Fund						
010	General Fund Undesignated	6,200,100	16,436,853	403,100	99,025	18,666,283	3,787,104
	General Fund Reserve	3,621,572	-	-	-	-	4,109,213
	Subtotal	9,821,672	16,436,853	403,100	99,025	18,666,283	7,896,317
Specia	al Revenue Funds						
202	Street Maintenance	1,637,778	703,635	700,000	-	1,719,236	1,322,177
	05 Public Safety Trust	320,411	106,103	-	175,000	520	250,994
206	Community Development	1,213,445	2,737,309	-	-	3,221,845	728,909
207	General Plan	112,313	80,154		-	60,498	131,969
210	Community Centers	98,997	2,119	50,000	-	-	151,116
215	HCD	-	166,440	-	15,000	151,440	-
216	HCD Rehab	111,919	9,648	-	-	121,567	-
220	Museum	- 4/ /01	1 020	-	-	-	47 711
225	Asset Seizure	46,691	1,020	-	-	140.020	47,711 749
229 232	Light & Landscape Environmental Programs	10,021 582,251	130,766 399,491	-	- 148,100	140,038 269,837	563,805
232 234	Mobile Home Park Rent	20,147	5,148	-	140,100	5,202	20,093
23 <del>4</del> 235	Senior Housing Trust	259,576	5,146	-	_	20,180	244,897
236	Housing Mitigation	1,059,672	12,031	_	_	1,015,000	56,703
240	Employee Assistance	79,731	29,059	_	_	25,000	83,790
_ 10	Subtotal	5,552,952	4,388,424	750,000	338,100	6,750,363	3,602,913
	tal Project Funds	2 400 504	E70 E04			2.042.044	2 104 240
301	Park Development	3,680,596	578,596	-	125 000	2,062,944	2,196,248
302 303	Park Maintenance	3,009,140	254,863	-	125,000	25,000	3,114,003
303 304	Local Drainage Local Drainage/Non AB 1600	2,895,418 3,198,265	243,292 146,377	-	-	2,001,536 841,669	1,137,174 2,502,973
305	Off Street Parking	3,170,203	140,377	-	_	- 041,007	2,302,713
306	Open Space	616,588	165,125	-	-	-	781,713
309	Traffic Impact	2,882,119	651,916	-	-	1,050,000	2,484,035
311	Police Impact	60,150	39,568	-	-	88,937	10,781
313	Fire Impact	2,271,193	138,417	-	-	101,380	2,308,230
317	RDA	471,145	17,297,308	-	-	14,342,563	3,425,890
327/32	28 Housing/Rehab Loan	3,722,649	4,849,727	-	-	5,824,189	2,748,187
340	MH Bus Ranch AD CIP	49,044	1,069	-	-	-	50,113
342	MH Bus Ranch II AD CIP	55,078	1,201	-	-	-	56,279
346	Public Fac/Non AB 1600	611,457	629,137	-	-	553,000	687,594
347	Public Facilities Impact	1,076,762	74,737	-	-	1,365	1,150,134
348	Library Impact	481,168	526,000	-	-	1,000,202	6,966
350	Undergrounding	1,146,353	242,742	-	-	375,390	1,013,705
360	Community Center Impact Subtotal	9,919	44,399	-	- 125,000	50,000 <b>28,318,175</b>	4,318 <b>23,678,343</b>
	Subtotal	26,237,044	25,884,474	-	123,000	20,310,173	23,070,343
Debt	Service Funds						
536	Encino Hills AD	69,087	1,495	-	-	-	70,582
539	MH Business Park AD	12,051	250	-	-	-	12,301
542	Sutter Business Park AD	25,299	552	-	-		25,851
545	Cochrane Bus Park AD	191,121	279,134	-	-	194,200	276,055
551	Joleen Way AD	6,466	41,235	-	-	39,561	8,140
	Subtotal	304,024	322,666	-	-	233,761	392,929

# Fund Balance (FY 03/04 Continued)

		03/04 Fund Bal	03/04 Projected	03/04 Projected	03/04 Projected	03/04 Projected	03/04 Projected Bal
	Fund Description	07/01/03	Revenue	Transfer In	Transfer Out	Expenditure	06/30/04
Ent∈	erprise Funds						
640	Sewer Operations	5,065,218	5,549,365	-	923,285	6,142,980	3,548,318
641	Sewer Impact	4,565,587	2,187,495	-	-	1,192,640	5,560,442
642	Sewer Rate Stabilization	3,804,228	59,363	-	-	2,369	3,861,222
643	Sewer Capital Projects	2,978,620	44,314	500,000	-	1,533,928	1,989,006
650	Water Operations	2,572,587	6,319,674	1,045,785	2,427,500	6,759,805	750,741
651	Water Impact	(114,883)	409,450	2,405,199	-	2,652,299	47,467
652	Water Rate Stablization	867,428	8,686	-	850,000	551	25,563
653	Water Capital Projects	3,857,481	446,819	-	415,199	2,596,478	1,292,623
	Subtotal	23,596,266	15,025,166	3,950,984	4,615,984	20,881,050	17,075,382
Inte	rnal Service Funds						
730	Information Systems	383,965	220,864	35,250	_	220,864	419,215
740	Building Maintenance	397,457	891,042	-	54,000	441,931	792,568
745	CIPAdministration	41,159	1,372,283	-		1,372,283	41,159
760	Unemployment Insurance	47,278	29,452	-	_	30,000	46,730
770	Worker's Compensation	6,147	694,576	-	_	698,897	1,826
790	Equipment Replacement	2,825,938	248,663	-	-	43,758	3,030,843
795	General Liability Insurance	856,668	388,116	-	-	380,772	864,012
	Subtotal	4,558,612	3,844,996	35,250	54,000	3,188,505	5,196,353
Δαει	ncy Funds						
841	MH Business Ranch I AD	1,071,585	1,273,303	_	1,020,671	1,324,217	_
842	MH Business Ranch II AD	47,727	118,932	_	96,912	69,747	_
843	MH Business Ranch 98 AD	605,665	867,292	-		872,771	600,186
844	MH Ranch Reassessment 2004	-	453	1,117,583	_	589,424	528,612
845	Madrone Bus Park - Exempt	512,205	794,392	-	_	809,415	497,182
846	Madrone Bus Park - Taxable	102,475	166,770	-	-	172,288	96,957
848	Tennant Ave Business Park	360,919	66,725	-	-	-	427,644
881	Police Donation Trust	20,939	327	-	-	-	21,266
	Subtotal	2,721,515	3,288,194	1,117,583	1,117,583	3,837,862	2,171,847
	TOTAL - ALL FUNDS	96,208,944	73,843,641	9,169,736	9,169,736	103,693,311	66,359,274

# Fund Balance (FY 04/05 Continued)

	Fund Description	04/05 Fund Ba 07/01/04	l Projected	04/05 Projected Transfer In	04/05 Projected Transfer Out	04/05 Projected Expenditure	04/05 Projected Bal 06/30/05
Ente	erprise Funds						
640	Sewer Operations	3,548,318	5,628,937	_	220,000	6,230,819	2,726,436
641	Sewer Impact	5,560,442	1,194,826	_	-	2,926,745	3,828,523
642	Sewer Rate Stabilization	3,861,222	84,161	_	_	2,117	3,943,266
643	Sewer Capital Projects	1,989,006	36,527	-	-	1,102,539	922,994
650	Water Operations	750,741	6,157,911	2,500,000	420,000	7,292,417	1,696,235
651	Water Impact	47,467	5,200,000	-	2,500,000	345,226	2,402,241
652	Water Rate Stablization	25,563	445	-	-	493	25,515
653	Water Capital Projects	1,292,623	1,016,646	_	_	1,115,923	1,193,346
	Subtotal	17,075,382	19,319,453	2,500,000	3,140,000	19,016,279	16,738,556
Inte	rnal Service Funds						
730	Information Systems	419,215	230,970	49,025	-	430,970	268,240
740	Building Maintenance	792,568	1,652,610	-	-	1,343,445	1,101,733
745	CIPAdministration	41,159	1,395,765	-	-	1,395,765	41,159
760	Unemployment Insurance	46,730	60,484	-	-	55,000	52,214
770	Worker's Compensation	1,826	875,300	-	-	767,200	109,926
790	Equipment Replacement	3,030,843	373,009	-	-	187,240	3,216,612
795	General Liability Insurance	864,012	453,709	-	-	427,700	890,021
	Subtotal	5,196,353	5,041,847	49,025	-	4,607,320	5,679,905
Age	ncy Funds						
841	MH Business Ranch I AD	-	-	-	-	-	-
842	MH Business Ranch II AD	-	-	-	-	-	-
843	MH Business Ranch 98 AD	600,186	905,353	-	-	893,395	612,144
844	MH Ranch Reassessment 2004	528,612	619,142	-	-	598,873	548,881
845	Madrone Bus Park - Exempt	497,182	826,553	-	-	800,730	523,005
846	Madrone Bus Park - Taxable	96,957	179,459	-	-	175,480	100,936
848	Tennant Ave Business Park	427,644	37,993	-	-	-	465,637
881	Police Donation Trust	21,266	465	-	-	-	21,731
	Subtotal	2,171,847	2,568,965	-	-	2,468,478	2,272,334
	TOTAL - ALL FUNDS	66,359,274	73,962,682	3,702,125	3,702,125	80,060,659	60,261,297

#### RESOLUTION NO. \_\_\_\_

# A RESOLUTION OF THE CITY COUNCIL OF CITY OF MORGAN HILL ADOPTING THE 2004/05 ANNUAL CITY BUDGET AND ADOPTING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2004/05

WHEREAS, the City of Morgan Hill Budget for the 2004/05 fiscal year was prepared by the City staff and reviewed by the City Manager;

WHEREAS, the City of Morgan Hill Budget for the 2004/05 fiscal year was presented to the City Council on May 19, 2004, was reviewed at a Public Workshop on May 21 and was further reviewed at a Public Hearing on June 2, 2004;

WHEREAS, in accordance with the State Revenue and Taxation Code Section 7910, the City of Morgan Hill's 2004/05 appropriations limit is \$54,717,489, as shown on Schedule A. The appropriations for the 2004/05 fiscal year, as shown on Schedule B, which are subject to the appropriations limit as set forth in Article XIIIB of the California Constitution, do not exceed the limit as stated above. The annual adjustment factors that were selected to calculate the 2004/05 limit were: 1) California Per Capita Personal Income adjustment of 1.0328%; and 2) City Population Growth of 1.0216%; and

WHEREAS, modifications and amendments to the adopted 2004/05 City of Morgan Hill Budget can only be made in accordance with the "Budget Administrative Policies" in the Proposed Budget;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill finds that the Capital Improvement Program is in conformity with the General Plan; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill does hereby approve and adopt the City of Morgan Hill 2004/05 Budget, Appropriations Limit and Appropriations Limit Adjustment Factors for Fiscal Year 2004/05.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the  $16^{th}$  day of June, 2004, by the following vote:

AYES: COUNCIL MEMBERS: NOES: COUNCIL MEMBERS: ABSENT: COUNCIL MEMBERS: ABSTAIN: COUNCIL MEMBERS:

City of Morgan Hill Resolution No Page 2	
• 0	ERTIFICATION •
CALIFORNIA, do hereby certify that to	CLERK OF THE CITY OF MORGAN HILL, the foregoing is a true and correct copy of Resolution No. egular Meeting held on June 16, 2004
WITNESS MY HAND AND T	HE SEAL OF THE CITY OF MORGAN HILL
DATE:	IRMA TORREZ, City Clerk

### CITY OF MORGAN HILL SPENDING LIMIT CALCULATION FISCAL YEAR 2004/05

#### APPROPRIATIONS SUBJECT TO LIMIT

Fiscal Year 2004-05 General Fund Revenues		\$16,839,953
Less Non Proceeds of Tax		5,078,337
		<b></b>
Total appropriations subject to limits		\$11,761,616
APPROPRIATIONS LIMIT		
Fiscal year 2003-04 appropriations limit		\$51,859,586
Plus Change Factor:		
A. Cost of living adjustment - CPI	1.0328	
B. Population Adjustment	1.0216	
Total Change Factor		1.05510848
Increase in appropriations limit		2,857,903
FISCAL YEAR 2004-05 APPROPRIATIONS LIMIT		54,717,489
Remaining appropriations capacity		42,955,873
Available capacity as a percent of appropriations limit		79%

#### **NOTES**

- a. Cost of Living adjustment is based on percentage change in California per capita income
- b. Population adjustment is based on the greater of annual population change for the City of Morgan Hill or Santa Clara County.

### CITY OF MORGAN HILL SPENDING LIMIT CALCULATION FISCAL YEAR 2004/05

#### PROCEEDS NON PROCEEDS

	TROCEEDS TOTT ROCEEDS		
REVENUE SOURCE	OF TAX	OF TAX	TOTALS
	<b>**</b> 100 110		• 100 110
Property Tax	\$2,499,410		2,499,410
Sales Tax	4,738,510		4,738,510
Transient Occupancy Tax	945,000		945,000
Franchise Revenue	965,000		965,000
Property Transfer Tax	367,500		367,500
Business License / Other Permits	201,720		201,720
Motor Vehicle in Lieu	2,044,476		2,044,476
Fines and Penalties		47,000	47,000
Use of Money and Property		819,261	819,261
Other Revenue / Other Agencies		\$272,700	272,700
Police and Fire Fees		127,900	127,900
Current Service Charges General Govt.		3,408,376	3,408,376
Transfers		403,100	403,100
Total	\$11,761,616	\$5,078,337	\$16,839,953
Percentage of Total	70%	30%	100.00%

#### **RESOLUTION NO. MHRA-**

### A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MORGAN HILL ADOPTING THE 2004/05 ANNUAL AGENCY BUDGET

WHEREAS, the Redevelopment Agency of the City of Morgan Hill Budget for the 2004/05 fiscal year was prepared by Redevelopment Agency and City staff and was reviewed by the City Manager/Executive Director;

WHEREAS, the Redevelopment Agency of the City of Morgan Hill Budget for the 2004/05 fiscal year was presented to the Agency Board of Directors on May 19, 2004, was reviewed at a Public Workshop on May 21, 2004, and was further reviewed at a Public Hearing on June 2, 2004;

WHEREAS, modifications and amendments to the adopted 2004/05 Redevelopment Agency of the City of Morgan Hill Budget can only be made in accordance with the "Budget Administrative Policies" described in the Proposed Budget;

NOW, THEREFORE, the Redevelopment Agency Board finds that planning and administrative costs attributable to the Housing 20% Set-Aside fund are necessary and proportionate to amounts proposed for actual housing activities during the fiscal year; and

NOW, THEREFORE, BE IT RESOLVED that the Agency Board of the Redevelopment Agency of the City of Morgan Hill does hereby approve and adopt the Redevelopment Agency of the City of Morgan Hill 2004/05 Budget.

PASSED AND ADOPTED by the Morgan Hill Redevelopment Agency at a Special Meeting held on the 16th day of June, 2004 by the following vote:

**AYES:** AGENCY MEMBERS:

**NOES:** AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS

**ABSTAIN: AGENCY MEMBERS:** 

City of Morgan Hill
Resolution MHRA
Page 2

#### • CERTIFICATION •

**I, IRMA TORREZ, AGENCY SECRETARY**, do hereby certify that the foregoing is a true and correct copy of Resolution No. MHRA-\_\_\_ adopted by the Morgan Hill Redevelopment Agency at the Special Meeting of June 16, 2004

#### WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL

DATE:		
]	RMA TORREZ, Age	ncy Secretary